AL-11-001-0306

United States Senate

WASHINGTON, DC 20510

June 27, 2011

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

We are writing to you today with our concerns regarding the implementation timeline for the Oil Spill Prevention, Control and Countermeasure (SPCC) rule for farmers.

First we would like to thank you for finalizing the exemption of milk and milk product containers from the SPCC rule on April 12, 2011. We appreciate your attentiveness to the feedback you received from the agriculture community. We also appreciate your willingness to prevent the unintended consequences of the SPCC regulations, which would have placed a tremendous burden on the agricultural community.

We are writing to you today with our concerns regarding the implementation timeline for the SPCC rule for farmers. As you know, last year the EPA proposed extending the compliance date under the SPCC rule to November of 2011. We applaud EPA's current extension for farms that came into business after August of 2002. We also appreciate the efforts of EPA and USDA to inform farmers about the new guidelines -- in particular, USDA's new pilot initiative to help producers comply with the new SPCC rule. However, we remain concerned that EPA has not yet undertaken the outreach necessary to ensure that all farms have sufficient opportunity to meet their obligations under the regulation.

SPCC regulations are applicable to any facility, including farms, with an aggregate above-ground oil storage capacity of 1,320 gallons in tanks of 55 gallons or greater. To comply with this rule, farms where there is a risk of spilled oil reaching navigable waters may need to undertake costly engineering services, as well as infrastructure improvements, to assure compliance with the regulation. Despite setting stringent standards, the EPA has done little to make sure small farms can meet the requirements set forth in the SPCC rule.

We strongly believe farmers want to be in compliance with the rule, but in order to do so they will need a longer period during which EPA undertakes a vigorous outreach effort with the agricultural community. Currently, the farming community in many instances lacks access to Professional Engineers (PEs). We have heard from many farmers who cannot find PEs willing or able to work on farms. In some states, no qualified professional engineers have even registered to provide SPCC consultation. In others, fewer than five have registered. Without access to PEs, it will be impossible for farmers to become SPCC compliant.

Recently released draft guidance on waters of the United States by the EPA and the U.S. Army Corps of Engineers also appear to dramatically expand the agencies' authority with regard to which waters and wetlands are considered "adjacent" to jurisdictional "waters of the United States" under the Clean Water Act. Many farm and ranch families are worried that this guidance could now force them to comply with the SPCC rule, with very little time to do so. Additionally, the delay of compliance assistance documentation has put farmers far behind the curve in preparing for compliance. Had the information and documentation been available before the January grower meetings, the compliance process could have begun before the time intensive growing season.

Furthermore, EPA still needs to clarify exactly who is responsible for holding and maintaining the plan, as many farms are operated by people who do not own the land. EPA also needs to clarify how it plans to enforce the rule.

The last thing we want is for confusion or an overly burdensome rule to disincentivize compliance. Many farmers do not keep their tanks full during the entire year, and we have already heard from associations whose members are considering decreasing the size of their tanks so they will not be subject to SPCC compliance. This could eliminate their ability to buy fuel in bulk, thus increasing their costs and the costs of food production.

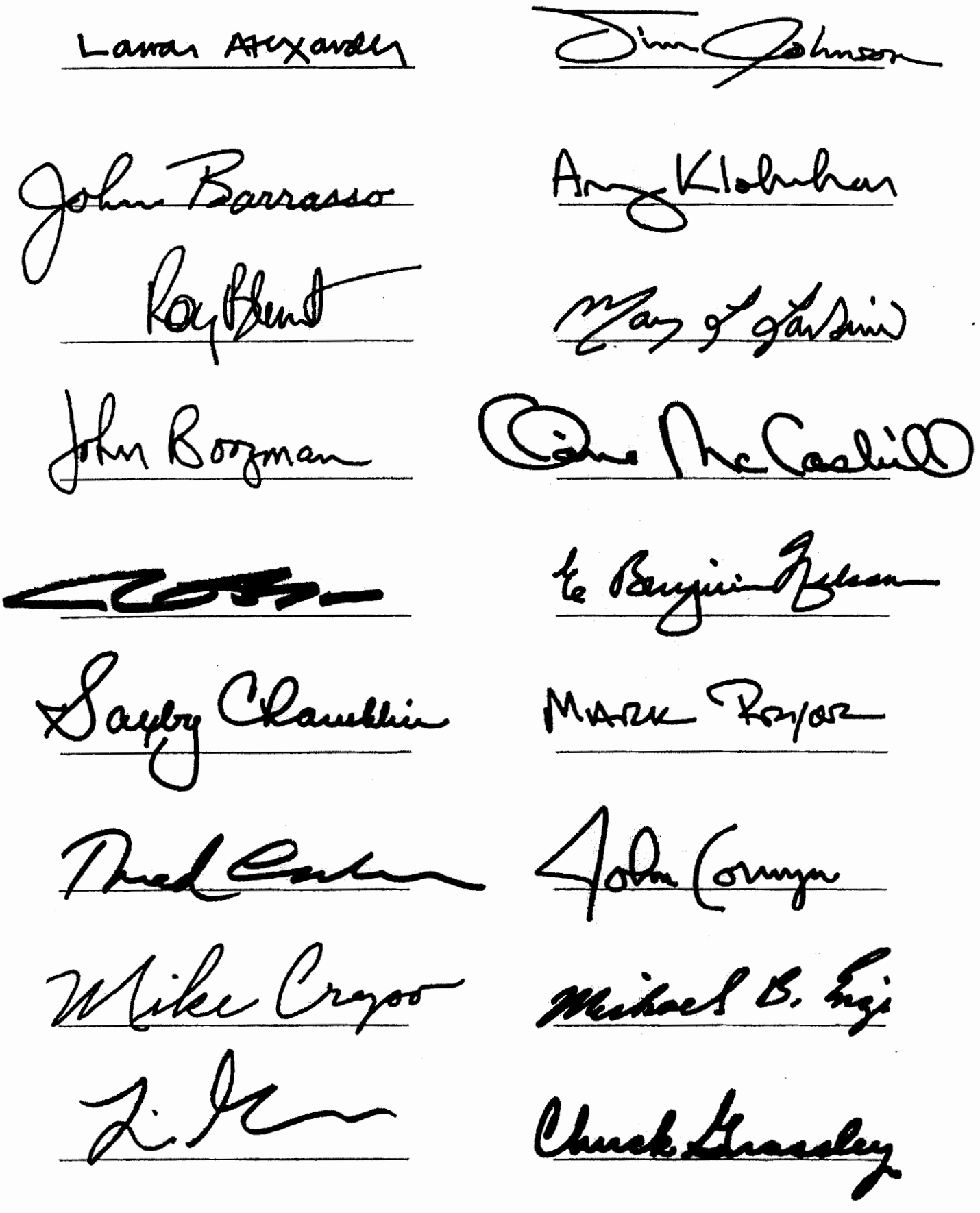
Small family farms have a natural incentive to prevent any possible oil spills on their property. No one wants more oil spills. In fact, the last people who want to spill oil are family farm owners. The impact of dealing with a costly clean-up could be devastating to the finances of a small farm.

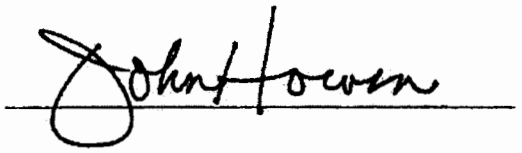
We respectfully request that you re-consider the implementation deadline, continue to dialogue with the agricultural community to answer their questions, and ensure that the rule is not overly burdensome or confusing. We believe this will help avoid the rule's unintended consequences. We appreciate your attention to this important matter.

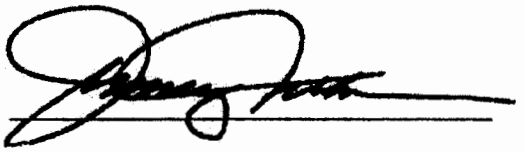
Sincerely,

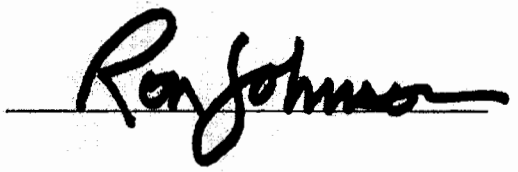
James M. Inhofe
United States Senator

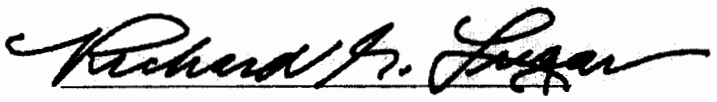
Kent Conrad
United States Senator



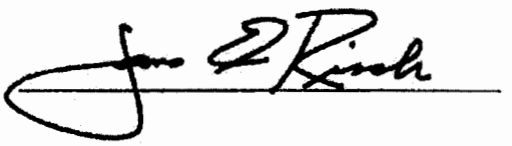


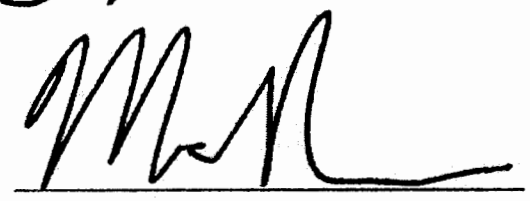


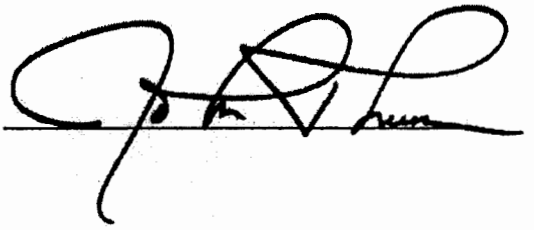


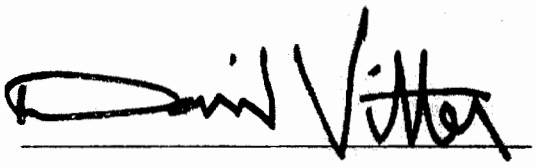


Jerry Moran









UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 12 2011

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

Dear Senator Enzi:

Thank you for your letter of June 27, 2011, to the U.S. Environmental Protection Agency regarding the Spill Prevention, Control and Countermeasure (SPCC) rule. In your letter, you cited concerns with the implementation timeline for the SPCC rule for farmers and indicated that farmers need additional time to comply with the rule revisions. I understand your concerns and I appreciate the opportunity to share important information about assistance for the agricultural community.

By way of background, the SPCC rule has been in effect since 1974. The EPA revised the SPCC rule in 2002 and further tailored, streamlined and simplified the SPCC requirements in 2006, 2008 and 2009. During this time, the EPA extended the SPCC compliance date seven times to provide additional time for facility owner/operators to understand the amendments and to revise their Plans to be in compliance with the rule. The amendments applicable to farms, among other facilities, provided an exemption for pesticide application equipment and related mix containers, and clarification that farm nurse tanks are considered mobile refuelers subject to general secondary containment like airport and other mobile refuelers. In addition, the agency modified the definition of facility in the SPCC regulations, such that adjacent or non-adjacent parcels, either leased or owned by a person, including farmers, may be considered separate facilities for SPCC purposes. This is relevant because containers on separate parcels (that the farmer identifies as separate facilities based on how they are operated) do not need to be added together in determining whether they are subject to the SPCC requirements. Thus, if a farmer stores 1,320 US gallons of oil or less in aboveground containers or 42,000 US gallons or less in completely buried containers on separate parcels, they would not be subject to the SPCC requirements. (In determining which containers to consider in calculating the quantity of oil stored, the farmer only needs to count containers of oil that have a storage capacity of 55 US gallons and above.)

Your letter expresses concern about a lack of Professional Engineers (PE) available to certify SPCC Plans. However, most farmers do not need a PE to comply with the SPCC requirements. When the SPCC rule was originally promulgated in 1973, it required that every SPCC Plan be PE certified. However, the EPA amended the SPCC rule in 2006, and again in 2008, to create options to allow qualified facilities (i.e. those with aboveground oil storage capacities of 10,000 gallons or less and clean spill histories) to self-certify their Plans (no PE required) and, in some cases, complete a template that serves as the SPCC Plan for the facility. The SPCC rule requires that the owner or operator of the facility (in this case, a farm) prepare and implement an SPCC Plan. The Plan must be maintained at the location of the farm that is normally attended at least four hours per day. The EPA updated the Frequent Questions on the SPCC Agriculture webpage to include this clarification.

Additionally, during development of the SPCC amendments EPA and the U.S. Department of Agriculture (USDA) gathered information that indicated that approximately 95 percent of farms covered

by the SPCC requirements are likely to qualify to self-certify their Plan—that is, no PE certification. Farmers that require the use of a PE and have difficulty finding one before the compliance date may contact the EPA Regional Administrator for the region in which they are located and request a time extension to amend and prepare an SPCC Plan.

EPA understands the issues raised by the farm community and is currently evaluating the best approach to resolve the identified issues. We are working hard to explore viable options for addressing the concerns you have raised. At a minimum, as noted above, those farmers who cannot meet the November 10, 2011, compliance date may request an extension as provided for specifically under 40 CFR 112.3 (f), which states:

> " *Extension of time:* The Regional Administrator may authorize an extension of time for the preparation and full implementation of a Plan, or any amendment of a Plan thereto, beyond the time permitted for the preparation, implementation, or amendment of a Plan under this part, when he finds that the owner or operator of a facility subject to the section, cannot fully comply with the requirements as a result of either nonavailability of qualified personnel, or delays in construction or equipment delivery beyond the control and without the fault of such owner or operator or his agents or employees...."

Among the options we are exploring is an appropriate and expeditious process by which such an extension could be of value in addressing the legitimate concerns raised on behalf of agricultural producers.

The Frequent Questions on the EPA's SPCC for Agriculture webpage reflect this information to ensure that farmers are aware that an extension is possible and to describe the process to request such an extension. The address for that website is *http://www.epa.gov/emergencies/content/spcc/spcc_ag.htm*. We will continue to explore opportunities that would trigger approval of such exemption requests and will investigate mechanisms to help farmers request an extension.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586. We also welcome your suggestions for additional outreach and compliance assistance approaches.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

AL-12-001-3022

Congress of the United States
Washington, DC 20515

August 3, 2012

Administrator Lisa Jackson
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Administrator Jackson,

We write today to express our concern with the Environmental Protection Agency's (EPA) proposed action partially disapproving of the State of Wyoming's Regional Haze State Implementation Plan (SIP), which was published in the *Federal Register* on June 4, 2012. The EPA's partial disapproval of the Wyoming SIP ignores the good work of the Wyoming Department of Environmental Quality (DEQ) and is an unnecessary overreach on an issue that is best regulated at the state level.

The Wyoming DEQ followed all of the factors specified in the Clean Air Act and developed a reasonable approach to addressing regional haze. The plan balanced the need to address regional haze, but in a cost effective manner. The EPA, through its proposed Federal Implementation Plan (FIP), has recommended a solution that will be more costly and have only a marginal environmental benefit. This will lead to higher electricity costs and job losses at a time when our economy cannot afford either.

The EPA's partial disapproval of the Wyoming SIP flies directly in the face of the traditional role of the states. Wyoming citizens should be given deference in determining how they want to approach an issue related to visibility. The heavy-handed, top-down approach from EPA ignores the will of the State of Wyoming in an area that will not improve public health.

In addition to its tremendous cost and marginal benefits, the EPA's action has created an increased amount of uncertainty for electric generators in our state. If the EPA moves forward with its FIP, operators in Wyoming will face regulation from both the Wyoming DEQ and the EPA. Duplicative regulation is not helpful as we seek to create jobs and improve our economy.

We are confident the Wyoming DEQ has a reasonable plan to address regional haze. The approach suggested by the EPA is unnecessary and violates the traditional job of state regulators to address this issue. We urge you to reverse your decision to partially disapprove Wyoming's SIP and allow the Wyoming DEQ to address this issue as they deem appropriate.

Sincerely,

Michael B. Enzi
United States Senator

John Barrasso, M.D.
United States Senator

Cynthia Lummis
U.S. Representative

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

AUG 16 2012

Ref: 8P-A

The Honorable Michael B. Enzi
United States Senate
Washington, DC 20510-5004

Dear Senator Enzi:

Thank you for your letter of August 3, 2012, providing comments on the EPA's proposed action regarding Wyoming's State Implementation Plan (SIP) to address regional haze. Your comments and all others we received during the public comment period for this proposed action will be reviewed carefully and considered fully as we work toward our decision.

I agree that the Wyoming Department of Environmental Quality (DEQ) has submitted a plan that, for the most part, will improve air quality in the State; and the EPA has proposed to approve most of the State's plan. The EPA is proposing a federal plan because we believe that some of the State plan's conclusions regarding the needed visibility improvements were not consistent with the Clean Air Act's regional haze requirements.

I should note that EPA Region 8 managers and staff have met frequently with representatives of the Wyoming DEQ regarding addressing regional haze, and we will continue to do so. In addition, from the two public hearings EPA held in Wyoming, we heard a wide range of views from a large number of speakers. We've received extensive comments, and we are working to consider and respond to those comments. Our deadline for making a final decision is October 15, 2012.

Again, I appreciate your writing. We will notify your office as soon as our final decision is reached. In the meantime, if you or your staff have questions concerning our proposed action, please contact me, or your staff may wish to contact Sandy Fells, Regional Congressional Liaison, at 303-312-6604 or fells.sandy@epa.gov.

Sincerely,

James B. Martin
Regional Administrator

United States Senate

WASHINGTON, DC 20510

July 23, 2010

The Honorable Lisa Jackson
Administrator
U.S Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Dear Administrator Jackson,

We write to convey our continued concerns regarding the U.S. Environmental Protection Agency's (EPA) latest actions in its review of the National Ambient Air Quality Standards (NAAQS) as required every five years under the Clean Air Act. The Second Draft Policy Assessment (PA) for Particulate Matter (PM) released on July 8, 2010 in the Federal Register, if approved, would establish the most stringent and unparalleled regulation of dust in our nation's history.

According to the PA for Particulate Matter, EPA would be justified in either retaining the current levels of 150 $\mu g/m^3$ for regulating coarse PM or in revising it to levels as low as 65-85 $\mu g/m^3$, depending on the emphasis placed on the evidence and uncertainties. A coarse PM NAAQS of 65-85 $\mu g/m^3$ would be twice as stringent as the current standard. The current standards have been difficult if not impossible for industries in the Western portion of the country to attain, including agricultural operations.

We respect efforts for a clean and healthy environment, but not at the expense of common sense. These identified levels will be extremely burdensome for farmers and livestock producers to attain. Whether its livestock kicking up dust, soybeans being combined on a dry day in the fall, or driving a car down the gravel road, dust is a naturally occurring event.

Producers could potentially be fined for not meeting the PM standards while still practicing good management practices on their soils. Considering the Administration's focus on rural America and rural economic development, a proposal such as this could have a negative effect on those very goals. If the EPA publishes a rule that regulates dust at these low levels, excessive dust control measures could be imposed which could slow economic development and impose significant costs to farmers and businesses. Since EPA would be justified in retaining the current standard, then the current standard should be retained.

When the Clean Air Scientific Advisory Committee's (CASAC) meets on July 26, 2010 to review this PA and consider revising the current PM standards, we encourage you to consider maintaining the primary and secondary standards or, in the alternative, consider different PM

indicators. In particular, we ask that CASAC focus attention on EPA's choice to not adopt a PM10-2.5 standard. Common sense requires the EPA to acknowledge that the wind blows, and so does dust.

Sincerely,

Kit Bond

Michael B. Enzi

Jon Kyl

John Thune

Mike Johanns

Charles E. Grassley
United States Senator
- Iowa -

135 Hart Senate Office Building
Washington, D.C. 20510

Phone: (202) 224-3744
Fax: (202) 224-6020

To: EPA Administrator Jackson FAX: 202-501-1519

From: Amanda Taylor Date: 7/23/10

Subject: Particulate Matter No. of Pages (Including Cover): 4

Comments:

- Attached dear colleague from 21 senators re: Dust

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 3 1 2010

OFFICE OF
AIR AND RADIATION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of July 23, 2010, co-signed by 20 of your colleagues, expressing your concerns over the ongoing review of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). The Administrator asked that I respond to your letter.

We appreciate the importance of NAAQS decisions to western portions of the country, as well as agricultural communities, and I respect your perspectives and opinions. NAAQS are set to protect public health from outdoor air pollution, and are not focused on any specific category of sources or any particular activity (including activities related to agriculture). The NAAQS are based on consideration of the scientific evidence and technical information regarding health and welfare effects of the pollutants for which they are set.

We are early in the process and far from making any decisions on whether the PM standards should be changed. The next step is consideration of public comments and advice from the Clean Air Scientific Advisory Committee on a draft Policy Assessment (PA) prepared by EPA staff. The PA is not a decision document; it will be used with other information to inform the Administrator so she is able to determine whether, and if so how, to propose a revision of the NAAQS. There is a significant amount of work to be done and a formal proposal and call for further public review and comments would not be issued until early 2011. Following consideration of public comments on a proposal, the Administrator would issue a notice of final rulemaking later in 2011.

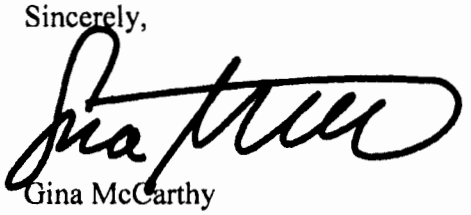
I want to note a correction with regard to your statement that "[a] coarse PM NAAQS of 65-85 ug/m^3 would be twice as stringent as the current standard." This is incorrect. According to EPA's draft PA, it would be appropriate to consider this range of alternative PM_{10} numerical levels only in conjunction with a significant change in the method used to calculate whether an area attains the standard. Such a change in the calculation could provide more flexibility than the current standard and greater year-to-year stability for the states.

We remain committed to common sense approaches to improving air quality across the country without placing undue burden on agricultural and rural communities. We will continue discussing these options with the Agency's science advisors and the public. This is all part of the

open and transparent rulemaking process that provides Americans with many opportunities to offer their comments and thoughts. Your comments and those of your colleagues will be fully considered as we proceed with our deliberations.

Again, the Administrator and I thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,



Gina McCarthy
Assistant Administrator

AL-06-001-3835

Congress of the United States
Washington, DC 20515

August 22, 2006

The Honorable Stephen L. Johnson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20004

Re: Montana Water Quality Standards Affecting Coalbed Natural Gas Development

Dear Administrator Johnson:

We write regarding the water quality standards that Montana's Board of Environmental Review has recently submitted to the Environmental Protection Agency (EPA) for approval. As you know, these standards have the potential to significantly impact Wyoming's coalbed methane industry. The coalbed methane industry plays an important role in supplying our nation with much needed energy. At a time of tight supplies and high prices, we remain concerned about any effort to severely limit coalbed methane production in the Powder River Basin.

We understand that the Agency may have significant questions regarding the scientific justification for these standards, their authority under state law, and their departure from the approach EPA approved only two years ago. We also question whether the Clean Water Act should be construed to allow Montana to enforce excessively stringent standards against Wyoming. These are issues that we expect the Agency will address with appropriate attention to the impact that approval of these standards would have on Wyoming's agricultural sector and coalbed natural gas industry.

The State of Wyoming requested that EPA mediate the differences between the two states and attempt to secure a solution to this issue that is acceptable to the two states and to the Northern Cheyenne Tribe. We support this request for EPA to facilitate a consensus resolution of the differences among these governments. It is our understanding that the EPA agreed to help mediate the situation. At this point in time, we are unaware of any activities being undertaken to mediate this issue. We would appreciate an update on your progress in reviewing Montana's proposed standards and efforts being taken by EPA to bring the parties to the table for meaningful mediation.

Thank you for your attention to a subject that affects two of Wyoming's most important industries. If we can provide assistance in resolving these issues, please do not hesitate to contact us.

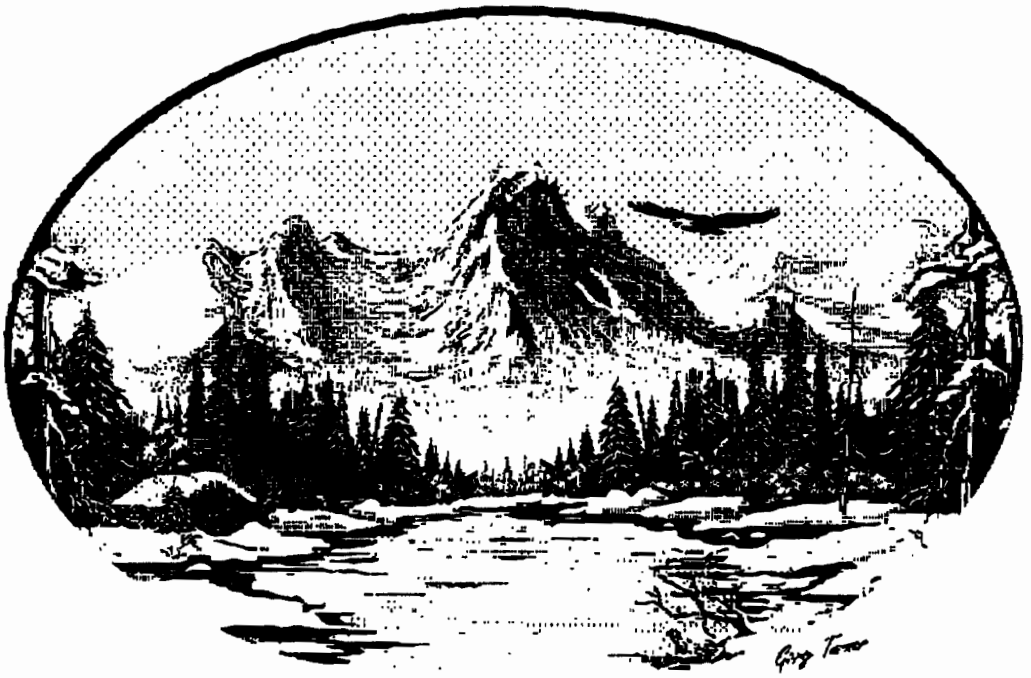
Sincerely,

Craig Thomas
United States Senator

Michael B. Enzi
United States Senator

Barbara Cubin
Member of Congress

To: Administrator Johnson
Fax: 202-501-1519
From: Senator Enzi, Senator Thomas and Rep. Cubin
Date: August 22, 2006
Pages (including this cover sheet): 2



From the Washington Office
of
Senator Michael B. Enzi (R-WY)

Comments:

Letter to Administrator Johnson regarding a coalbed methane water dispute between Wyoming and Montana.

Please contact Chris Tomassi of Sen. Enzi's staff if you have questions.

If there are any problems
with this transmission
please call us at (202) 224-3424.
Thanks!

AL-06-001-3830

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

Ref: 8EPR-EP

OCT 10 2006

Honorable Craig Thomas
United States Senate
Washington, D.C. 20510-5003

Dear Senator Thomas:

I am writing in response to your letter of August 22, 2006, to Administrator Stephen Johnson in which you expressed concern about the potential for Montana's recently revised water quality standards to adversely affect Wyoming's coalbed methane (CBM) industry. In your letter, you also asked for an update on the Agency's progress in responding to Governor Freudenthal's request that EPA mediate issues relating to potentially conflicting standards and seek resolution that would be acceptable to Wyoming, Montana and the Northern Cheyenne Tribe.

First, I would like to assure you that EPA is committed to working with all interested stakeholders to resolve issues relating to potentially conflicting water quality standards on waters shared by Wyoming, Montana and the Northern Cheyenne Tribe. EPA stands ready to play a proactive role in bringing together the two states, the Tribe and interested stakeholders. To help frame what a collaborative effort might look like, senior regional managers and I visited with the Director of the Wyoming Department of Environmental Quality and the Wyoming Attorney General; Governor Schweitzer and the Director of the Montana Department of Environmental Quality; and the President of the Northern Cheyenne Tribe during the week of August 14th.

During these visits, we had the opportunity to listen and respond to initial questions from the states and the Tribe about the idea of using a collaborative process and to seek suggestions on how this process might best be initiated. Based on positive feedback from those discussions, we have engaged a professional facilitator to further explore process options with the states, the Tribe and EPA. We are hopeful that these consultations will result in all key governmental parties deciding to participate in a negotiated resolution of these issues.

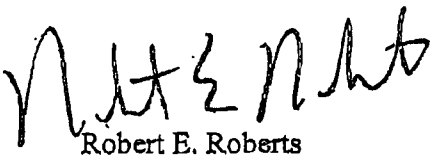
EPA is also committed to working with Montana, Wyoming, the Northern Cheyenne Tribe and the Crow Tribe on assembling and evaluating key data for the Tongue and Powder River Basins and to this end has been engaged in ongoing staff-level, technical discussions. Data evaluations, such as these, will allow us to better measure both the potential effect of the CBM discharges on existing water quality and the potential effect of the water quality standards on

CBM discharges. We believe these technical discussions can help provide the foundation for resolving the larger questions concerning appropriate application of the water quality standards on these shared waters.

Our review of Montana's revised water quality standards is ongoing, and we have not reached a decision on the State's submittal. As you know, our review of state water quality standards is governed by the requirements set out in the Clean Water Act, and our final decision will be based on our finding of whether or not Montana's revised standards are consistent with the requirements of the Clean Water Act and EPA's implementing regulations.

The Agency prefers that water quality standards be implemented through a cooperative process that results in a comprehensive resolution of water quality issues for these shared waters. I can assure you that the Agency is committed to working with Wyoming, Montana, the Northern Cheyenne Tribe and all interested stakeholders to make this happen. In the spirit of this cooperative approach, we are copying the Governors of Montana and Wyoming and the President of the Northern Cheyenne Tribe on this correspondence. I want to thank you for taking the time to write and express your interest in this important matter. If you have additional questions or wish to discuss this further, please call me, or you may have your staff contact Sandy Fells, Regional Congressional Liaison, at 303-312-6604.

Sincerely,



Robert E. Roberts
Regional Administrator

cc: Eugene Little Coyote, President, Northern Cheyenne Tribe
Governor Dave Freudenthal
Governor Brian Schweitzer

AL-10-001-3279

Congress of the United States
Washington, DC 20515

August 5, 2010

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, D.C. 20460

Dear Administrator Jackson:

We are writing to express our concerns regarding the Environmental Protection Agency's (EPA) proposal to make the federal arsenic standards for drinking water more stringent than the standard adopted by the EPA at the end of the Clinton Administration.

It is our understanding that the draft of EPA's Integrated Risk Information System (IRIS) assessment for inorganic arsenic proposes a 17-fold increase in cancer potency from oral exposure to inorganic arsenic. We also understand that the assessment is scientifically controversial, because it is based on Taiwanese data not representative of current exposures, and not supported by current science.

The regulatory consequences resulting from this new stringent health risk evaluation would be staggering for drinking water standards and for soil cleanup programs. Countless small water systems in our states are still struggling to meet the current drinking water standards adopted by the Clinton Administration. More stringent requirements that are not fully supported by an accurate and robust review and evaluation of the available scientific information will cause significant economic hardships.

We are aware of at least two studies under way, one for which EPA has provided support, that may shed new light on the effects of exposure to arsenic at low levels. One of those studies will likely be published by the end of the year. It would seem prudent to defer further work on the arsenic assessment until those studies can be included. It is more important that EPA get the science right and not develop risk evaluations that go further than necessary and that are not justified by a fair, accurate and complete understanding of the science.

It is our understanding that EPA is supposed to review and evaluate all relevant scientific studies in the published literature when drafting IRIS assessments. However, we are informed that there are nearly 300 studies in the scientific literature on arsenic published since 2007 that were not included in the Agency's evaluation. We find that troubling and are concerned that this could allow critics to conclude that the Agency is "cherry-picking" data to support its conclusions. Our concerns with the adequacy and accuracy of the scientific evaluation are compounded by alarming problems with the public participation and integrity of the peer review of the draft assessment. We were surprised to learn that public comments filed with the IRIS docket, in accordance with the directions published in the Federal Register, were not provided to the workgroup of the Agency's Science Advisory Board (SAB) when it was convened to review the assessment and take public comment in April.

We would like to draw your attention to comments filed by the Office of Advocacy for Small Business with the SAB, which we could not express better. Those comments are summarized, "In sum, the serious procedural issues and the rushed schedule made it almost impossible for the [SAB] Work Group to perform a serious and independent review. The 2010 draft failed in many respects to address key scientific issues. The above discussion makes it clear EPA has much additional work to do to complete the 2010 Draft. For the sake of the SAB and scientific integrity, we hope that the SAB will make the right choice and terminate this review."

For these reasons, we believe EPA should suspend further work on the IRIS assessment of inorganic arsenic. The Agency should thoroughly and completely evaluate all data on arsenic in the scientific literature, consider deferring action until the pending studies on the effects of exposure at low levels are completed and assure that public involvement and peer review are conducted with transparency, rigor and integrity.

You have pledged to make transparency and sound science hallmarks of your tenure as Administrator. In keeping with that pledge, we hope you will heed our calls and those of many others, including within your own agency, and defer further action on the IRIS review of arsenic until the issues we have outlined herein can be adequately addressed.

Sincerely,

Page Three

John Ensign

Wally Herger

Lynn Jenkins

Doug Lamborn

Mike Simpson

Mike Lee

Steve Chabot

Don Young

Jim Cole

John Barrasso

United States Senator, Wyoming

307 Dirksen Senate Office Building • Washington, DC 20510 • Phone: (202) 224-6441 • Fax: (202) 224-1724

FACSIMILE TRANSMISSION

To: The Honorable Lisa P. Jackson
U.S. Environmental Protection Agency
Fax Number: 202-501-1519

From: The Office of Senator Barrasso

(3) **Pages following cover sheet**

Notes:

If you encounter any problems with this fax, please contact the office of Senator John Barrasso at (202) 224-6441.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 2 4 2010

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Michael B. Enzi
United States Senate
Washington, DC 20510

Dear Senator Enzi:

Thank you for your August 5, 2010 letter to the U. S. Environmental Protection Agency's (EPA) Administrator, Lisa P. Jackson. Your concerns regarding the draft, "Toxicological Review of Inorganic Arsenic (cancer)," prepared by EPA's Integrated Risk Information System (IRIS) program, were forwarded to my office. We appreciate the opportunity to communicate how EPA is evaluating the available science related to the carcinogenicity of inorganic arsenic and is utilizing external peer review. EPA has provided opportunity for public comment during the development of the current draft assessment.

By way of background, due to the importance of inorganic arsenic exposures to public health, extensive research and several scientific assessments of the carcinogenicity of inorganic arsenic have been conducted. The current draft EPA IRIS assessment (February 2010) fully implements recommendations made by the National Research Council (NRC, 2001), which concluded that the cancer risk for inorganic arsenic should be based on internal cancers (e.g., lung and bladder) instead of skin cancers. As reported in EPA's 2010 draft inorganic arsenic cancer assessment, the NRC (2001) potency estimates for inorganic arsenic result in an oral cancer slope factor of 21 and 26 per mg/kg-d (for females and males, respectively) which brackets EPA's current draft estimate of 25.7 per mg/kg-day. The EPA 2010 draft assessment is consistent with the NRC (2001) assessment and with EPA's Science Advisory Board (2007) recommendations on EPA's 2005 draft IRIS assessment, which utilized the Taiwanese dataset in the derivation of the oral cancer potency estimate. We believe the Taiwanese datasets represent the best available science and use of these data has consistently been recommended by independent external review panels.

As you noted in your August 5 letter, new studies have and are becoming available on inorganic arsenic. EPA is aware of these studies and is evaluating the potential for these studies to materially change the conclusions of the draft assessment. At this time, the new research does not materially change the conclusion that the Taiwanese data are the most suitable for estimating the oral cancer risk for inorganic arsenic.

To address the concerns expressed about the availability of the public comments to the Science Advisory Board (SAB) peer reviewers, let me briefly summarize events regarding the request and submission of public comments to the SAB Arsenic Work Group. The Federal Register (FR) notice announcing the request for public comment was published February 19, 2010. This February 19, 2010, notice stated that all public comments provided on or before March 26, 2010, would be provided to the SAB Arsenic Work Group at the beginning of its April 6-7, 2010 meeting. The February 19, 2010, FR notice also stated that public comments received after March 26, 2010, would be provided to the SAB Arsenic Work group after the April meeting. Public comments submitted to the docket (www.regulations.gov) were provided to the SAB Arsenic Work Group on April 6, 2010; however, public comments submitted on March 26, 2010, experienced a several day delay between submission (March 26, 2010) and posting on the docket website. Despite this technical delay in the posting of public comments to the docket website, EPA provided these comments to the SAB Arsenic Work Group on April 7, 2010, the second day of the two-day April meeting. As the SAB Arsenic Work Group released their draft report on May 13, 2010, they were able to consider these additional public comments. Consistent with the February 19, 2010, FR notice, EPA submitted public comments received after the March 26, 2010, deadline to the SAB Arsenic Work Group on April 29, 2010.

In summary, the complete draft of "Toxicological Review of Inorganic Arsenic (cancer)" has considered the most relevant scientific information in a manner consistent with past independent external peer review recommendations and is currently undergoing review by the SAB Arsenic Work Group. Public comment has been welcomed. EPA will review the recommendations and conclusions of the SAB Arsenic Work Group when their work is complete as well as fully consider the public comments as we complete this important assessment.

While EPA understands the concern of higher risk predictions associated with exposures to very low arsenic levels in diet and drinking water, additional factors are accounted for in determining regulatory levels. For example, EPA's maximum contaminant level (MCL) for arsenic was established at the level that maximizes the health risk reduction benefits at a cost that is justified by the benefits in accordance with the Safe Drinking Water Act. Risk management considerations do not influence the scientific assessment of chemicals in the IRIS program.

Again, thank you for your letter and your continued interest in the EPA's draft "Toxicological Review of Inorganic Arsenic (cancer)." EPA is committed to transparency and the use of sound science, and these tenets continue to be the foundation for our work on inorganic arsenic. Should you have any questions, please contact me or your staff may call David Piantanida in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-8318.

Best regards,

Paul T. Anastas

Paul T. Anastas
Assistant Administrator

AL-12-001-3209

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MICHAEL ENZI
WYOMING

COMMITTEES
Health, Education, Labor and Pensions
Ranking Member
Budget
Small Business

United States Senate

WASHINGTON, DC 20510-5004

August 8, 2012

Administrator Lisa Jackson
U.S. Environmental Protection Agency
Room 300, Ariel Rios Building
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Administrator Jackson,

I am writing today to ask that you immediately consider using your existing waiver authority to adjust the corn-ethanol mandate for the Renewable Fuels Standard (RFS) to reflect the impact the mandate is having on increasing food and feed costs. Additionally, I would urge you to take into consideration that impact as you decide on the volumetric requirements for the RFS for the 2013.

According to the United States Department of Agriculture (USDA), drought conditions and a "rapid decline in crop conditions" since early June have caused the USDA to reduce the projected U.S. corn yield by 20 bushels per acre in its latest forecast. The USDA also reported that the 50 percent of the nation's corn crop was rated as poor-to-very-poor earlier this week. Last month, similar forecasts pushed U.S. corn prices to record levels, and the price remains exceptionally high today.

The use of corn to meet the requirements of the RFS is contributing to higher prices because a substantial amount of our nation's food crop is diverted to make fuel. With approximately 40 percent of our nation's corn crop diverted from the normal food supply chain to make fuel, feed and food prices are skyrocketing to unacceptable levels for producers and working families.

All of these factors make it essential for you to use the authority given to the Environmental Protection Agency (EPA) to waive all or portions of the RFS if there is inadequate supply to meet the mandate or when such a waiver will prevent economic harm to the country, a region, or a state. When you combine the USDA's projections for food price inflation at levels significantly higher than normal economic inflation with the already struggling economy, families and businesses will continue to struggle if you do not grant this waiver.

I look forward to your prompt consideration of this request and hope that you will agree that an immediate adjustment of the corn-ethanol mandate is necessary.

Sincerely,

Michael B. Enzi

Michael B. Enzi
United States Senate

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 18 2013

OFFICE OF
AIR AND RADIATION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter dated August 8, 2012, regarding a waiver of volume requirements under the Renewable Fuels Standard (RFS) program. The Acting Administrator asked me to respond on his behalf.

Governors from several states and a number of organizations cited the drought conditions affecting much of the country in their request for a waiver of the national volume requirements for the RFS pursuant to the Clean Air Act. After extensive analysis, review of thousands of comments, and consultation with the Department of Agriculture (USDA) and the Department of Energy (DOE), the U.S. Environmental Protection Agency denied the requests for a waiver in a decision published in the *Federal Register* on November 27, 2012.

The EPA recognizes that last year's drought has created significant hardships in many sectors of the economy, particularly for livestock producers. However, the agency's extensive analysis makes clear that Congressional requirements for a waiver have not been met and that waiving the RFS would have little, if any, impact on ethanol demand or energy prices over the time period analyzed.

The *Federal Register* notice contains a detailed description of the analysis the EPA conducted in conjunction with DOE and USDA, along with a discussion of relevant comments we received through our public comment process.

With regard to the standards that would apply under the RFS program in 2013, the EPA published a notice of proposed rulemaking in the *Federal Register* on February 7, 2013. This proposed rulemaking discusses EPA's denial of the requests for a waiver of the 2012 renewable fuel volume requirements. It also includes our estimate of the number of excess compliance credits (renewable identification numbers, or RINs) that will be available to help meet the proposed standards in 2013. The Agency will carefully consider comments received on this proposal before finalizing the volume requirements.

Again, thank you for your letter. If you have questions, please contact me or your staff may call Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

Gina McCarthy
Assistant Administrator

AL-12-001-7634

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website enzi.senate.gov

United States Senate

WASHINGTON, DC 20510-5004

MICHAEL ENZI
WYOMING

COMMITTEES:
Health, Education, Labor and Pensions
Ranking Member
Finance
Small Business
Budget

October 5, 2012

Associate Administrator
Enviromental Protection Agency
Congressional and Legislative Affairs
1200 Pennsylvania Avenue, NW
Room 3426 Arn
Washington, DC 20460-0002

Dear Sir:

The Sweetwater County Farm Bureau has provided me with a copy of their letter to Lisa Jackson, Administrator for the Environmental Protection Agency, regarding their request to have the Clean Water Act Guidance Document withdrawn by EPA and the Army Corps of Engineers. I have enclosed a copy of that letter for your review.

I would like to ask that the situation outlined be carefully reviewed and that I be advised of your findings. Whatever information and assistance you can provide will be greatly appreciated. Please respond to me at P.O. Box 12470, Jackson, Wyoming 83002; or by fax (307) 739-9520; or email to reagen_green@enzi.senate.gov. I look forward to your reply.

Sincerely,

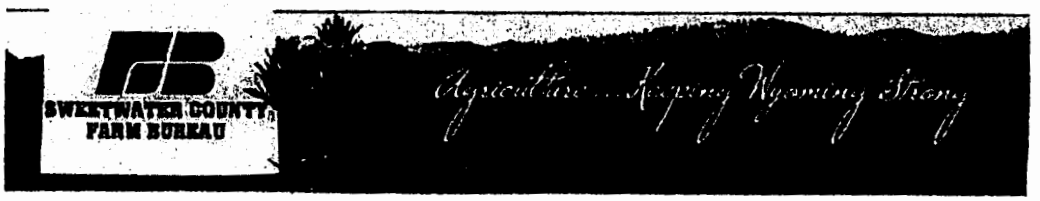
Mike Enzi

Michael B. Enzi
United States Senator

MBE:rbg

Enclosure

2012



September 26, 2012

Lisa P. Jackson, Administrator, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460

Tom Vilsack, Secretary of Agriculture, United States Department of Agriculture, 1400 Independence Ave., S.W., Washington, DC 20250

Dear Administrator Jackson and Secretary Vilsack:

Please withdraw the Clean Water Act Guidance Document by EPA and the Army Corps of Engineers.

If the Guidance Document were to be finalized, many areas of our ranches and areas throughout the state would become regulated by the EPA under the Clean Water Act. Congress did not intend the Clean Water Act to regulate ditches and farm ponds, possible groundwater, and even the rain once it falls to the ground.

The Clean Water Act has been successful in the previous 40 years. Now, the Guidance Document seeks new and expanded authority beyond the scope of the law. This must be withdrawn.

Thank you for your consideration.

Signed by members of the
Sweetwater County Farm Bureau
617 Broadway Suite E
Rock Springs, WY 82901

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 1 1 2012

OFFICE OF
WATER

The Honorable Michael B. Enzi
United States Senator
P.O. Box 12470
Jackson, Wyoming 83002

Dear Senator Enzi:

Thank you for your letter of October 5, 2012, to the U.S. Environmental Protection Agency (EPA) Associate Administrator for Congressional and Intergovernmental Relations regarding a letter from the Sweetwater County Farm Bureau to the EPA Administrator Lisa P. Jackson. The Sweetwater County Farm Bureau letter requests that the EPA withdraw the draft Clean Water Act guidance document published by the EPA and the U.S. Army Corps of Engineers (Corps), and expresses concerns that the draft guidance would lead to increased regulatory control of ranches and farms. As the senior policy manager of the EPA's national water program, I appreciate the opportunity to respond to your letter.

The EPA understands the significant contribution of farmers to the nation's economy and to the health and well-being of all Americans. The EPA takes very seriously the request of the Sweetwater County Farm Bureau.

In May 2011, the EPA and the Corps announced the availability for public comment of draft guidance that clarifies the scope of CWA protections in light of the Supreme Court's decisions. This guidance, if finalized, would replace the 2008 guidance that the EPA and the Corps currently use. The agencies developed the draft guidance because we and many stakeholders believe strongly that the current guidance issued in 2008 is confusing and is causing avoidable delays and inconsistency for those who need CWA permits.

The draft guidance would reaffirm the existing regulatory exemptions for agriculture, including those for prior converted cropland. It would not affect any of the exemptions from CWA section 404 permitting requirements provided by CWA section 404(f), including those for ongoing agriculture, forestry, and ranching practices. The draft guidance also would not change the statutory and regulatory exemptions from National Pollutant Discharge Elimination System (NPDES) permitting requirements for agricultural stormwater discharges and return flows from irrigated agriculture. It would clarify that groundwater is not protected as a "water of the United States" under the CWA.

We received over 230,000 comments, the vast majority of which were supportive of moving forward with clarifying the scope of protected waters. We have revised the guidance in response to comments received,

and submitted a draft final guidance to the Office of Management and Budget for interagency review. This document remains in interagency review.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at 202-564-4836.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
WATER

The Honorable Michael B. Enzi
United States Senator
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Jackson, Wyoming 83002

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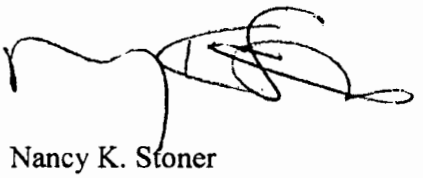

Nancy K. Stoner
Acting Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
WATER

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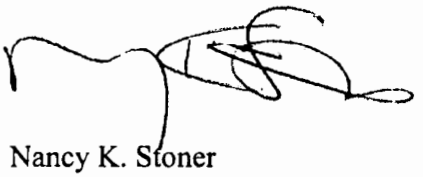

Nancy K. Stoner
Acting Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
WATER

The Honorable Michael B. Enzi
United States Senator
P.O. Box 12470
Jackson, Wyoming 83002

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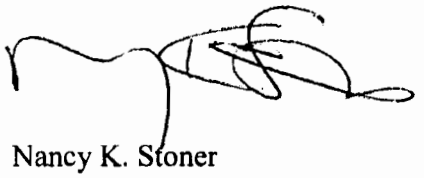


Nancy K. Stoner
Acting Assistant Administrator

AL-11-001-0735

United States Senate

WASHINGTON, DC 20510

June 30, 2011

The Honorable Lisa P. Jackson
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20004

The Honorable Jo-Ellen Darcy
Office of the Assistant Secretary (Civil Works)
Department of the Army
108 Army Pentagon
Washington, DC 20310

Dear Administrator Jackson and Assistant Secretary Darcy:

On May 2, 2011 the Environmental Protection Agency and the Army Corps of Engineers (the Agencies) published in the Federal Register (76 Fed. Reg. 24479) a request for comments on draft guidance relating to the identification of waters protected under the Clean Water Act (CWA).

We have a great deal of concern about the actions that the Agencies are pursuing. The Agencies claim that this guidance document is simply meant to clarify how the Agencies understand the existing requirements of the CWA in light of the current law, regulations, and Supreme Court cases. More than clarifying, they greatly expand what could be considered jurisdictional waters through a slew of new and expanded definitions and through changes to applications of jurisdictional tests. This guidance document improperly interprets the opinions of the plurality and Justice Kennedy's opinion in *Rapanos v. United States* by incorporating only their expansive language in an attempt to gain jurisdictional authority over new waters, while ignoring both justices' clear limitations on federal CWA authority.[1] Attached are highlights of several specific issues regarding the draft guidance document.

The decision to change guidance, just a few short years after the Agencies issued official guidance on the exact same issue, has not been prompted by any intervening changes to the underlying statute through legislation or a new Supreme Court decision. Further, we understand that the Agencies intend this draft guidance to be the first step toward a formal rulemaking in the future. Because the Agencies' intent is to turn the draft interim guidance into regulations, it can only be interpreted to mean that they intend the guidance to be followed. Following the guidance will change the rights and responsibilities of individuals under the CWA – this is clearly the regulatory intent.

In the economic analysis completed by the Agencies, it was determined that as few as 2% or as many as 17% percent of non-jurisdictional determinations under current 2003 and 2008 guidance would be considered jurisdictional using the expanded tests under the draft guidance.[2] Any change in jurisdiction which results in a change to the rights and responsibilities of a land owner is, in fact, a change in the law as the program has been implemented to date.

Further, the draft guidance is intended to apply to more jurisdictional interpretations than just those covered by the Army Corps in making §404 determinations, but also those under §402 that governs

[1] 547 U.S. 715 (2006)

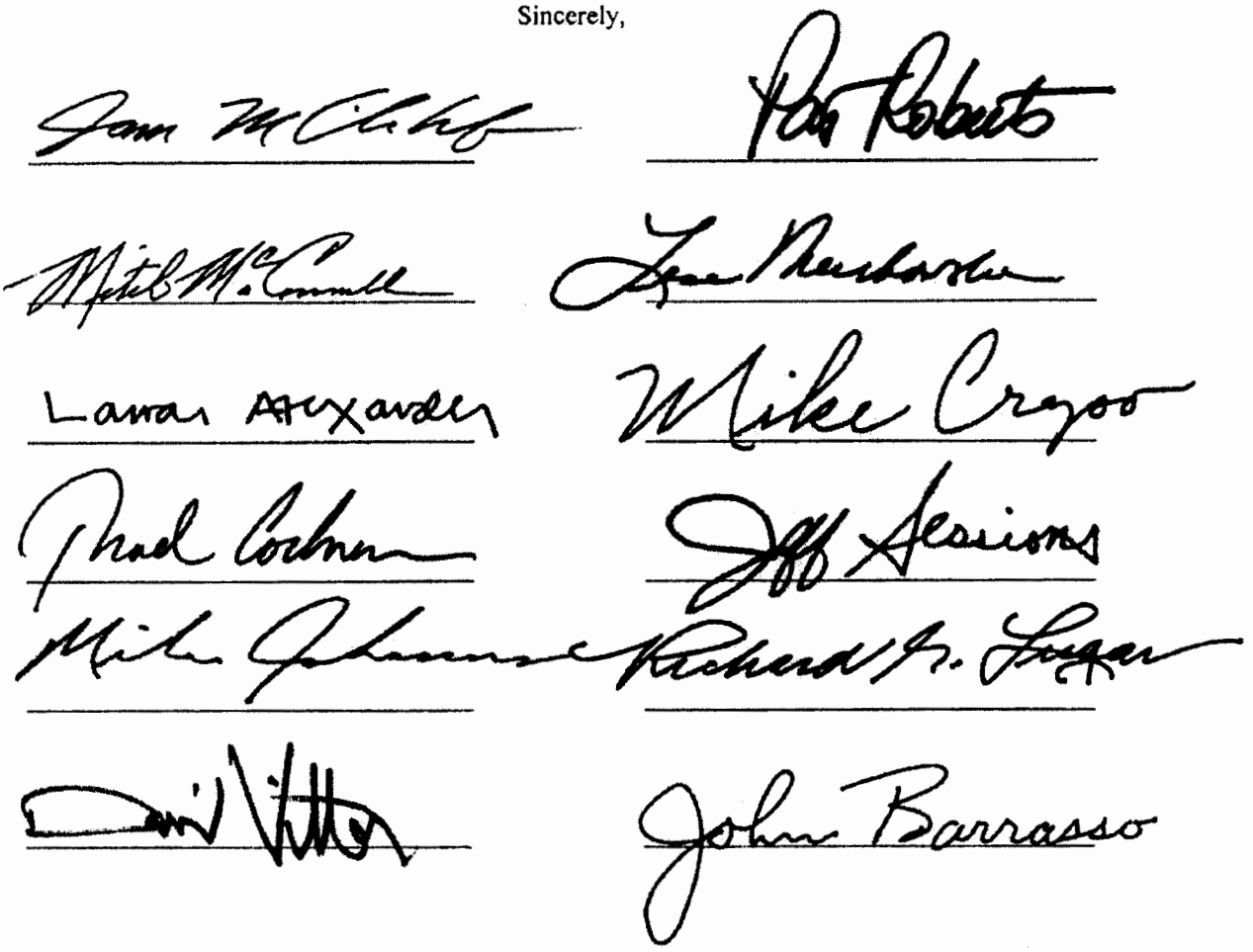
[2] "Potential Indirect Economic Impacts and Benefits Associated with Guidance Clarifying the Scope of Clean Water Act Jurisdiction." April 27, 2011 http://water.epa.gov/lawsregs/guidance/wetlands/upload/cwa_guidance_impacts_benefits.pdf

National Pollution Discharge Elimination System permits, §311, oil spills and SPCC plans, §303, water quality standards and TMDLs and §401 state water quality certifications. Because most states have delegated authority under many of these sections, this change in guidance will also result in a change in the responsibilities of states in executing their duties under the CWA. While we question seriously the need for this new guidance and believe that the Agencies lack the authority to rewrite their jurisdictional limitations in this manner, one thing is clear: it is fundamentally unfair to the States and the regulated community (including our nation's farmers and other property owners) to subject lands and waters under their control to a change in legal status of this magnitude via a "guidance document." Changes in legal status should only be done, if at all, through the regulatory process, specifically under the Administrative Procedure Act, subchapter II of chapter 5, and chapter 7, of title 5, United States Code.

Because the draft guidance will substantively change how the Agencies decide which waters are subject to federal jurisdiction and will impact the regulated community's rights and obligations under the CWA, this guidance has clear regulatory consequences and goes beyond being simply advisory guidelines. The draft guidance will shift the burden of proving jurisdictional status of waters from the Agencies to the regulated communities, thus making the guidance binding and fundamentally changing the legal rights and responsibilities that they have. When an agency acts to change the rights of an individual, we believe that the agency must go through the formal rulemaking process.

We respectfully request you abandon any further action on this guidance document.

Sincerely,



John Borgman

Michael B. Enzi

[redacted]

Li Lee

Mark Udall

Ray Blunt

John Hoeven

Jerry Moran

Highlights of Concerns

The following are a selection of the concerns we have with the draft guidance.

Interstate waters:
The Agencies' have added language to their definition of interstate waters explicitly directing field staff to use "other waters" that lie across state boundaries for jurisdictional determinations. "Other waters" include: "intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds." "Other waters" are now elevated to the same level as "navigable waters" for the purposes of determining whether or not waters are jurisdictional. Thus a geographically isolated prairie pothole that happens to be situated on a state boundary would be jurisdictional and could allow for a jurisdictional claim to be made on all other wet areas that have a "significant nexus" to the pothole. This new definition clearly goes beyond the current understanding expands the Agencies reach to previously non-jurisdictional waters.

Significant Nexus:
The new guidance makes substantial changes to what is considered a "significant nexus." Justice Kennedy's opinion in *Rapanos* stated that wetlands that have a "significant nexus" to traditional navigable waters are "waters of the United States:" "if the wetlands, either alone or in combination with similarly situated lands in the region, significantly affect the chemical, physical and biological integrity of other covered waters more reading understood as 'navigable.'" [3] Previous guidance read Justice Kennedy's language to apply to wetlands and limited the significant nexus tributaries to their higher order streams reach.

The new guidance eliminates the reach concept and applies the significant nexus test to all tributaries, wetlands, and proximate other waters that are "in the same watershed." Currently "other waters" are determined to be jurisdictional based on conditions that show their connections to interstate commerce. Additionally, waters may be aggregated and considered together, and if the category of water or wetland is determined to have a significant nexus to downstream waters, then each water or wetland in that category is considered a jurisdictional water of the United States.

The draft interim guidance dictates that determining what tributaries, wetlands, and other waters will have a "significant nexus" includes an analysis of the functions of waters to determine if they trap sediment, filter pollution, retain flood waters, and provide aquatic habitat. A significant nexus is based on both hydrological and ecological effects. A hydrological effect does not require a hydrological connection. The ability to hold water is considered an effect on downstream waters because that function arguably reduces the chances of downstream flooding. Furthermore effects on the chemical integrity of a water body on downstream waters could be reason for asserting jurisdiction, because it could show the ability to reduce the amount of pollutants that would otherwise enter a traditionally navigable water or interstate water. Biological effects include the capacity to transfer nutrients to downstream food webs or providing habitat for species that live part of their lives in downstream waters. Under this interpretation, an isolated water body can be considered to have a significant nexus to downstream waters. Again, if the category of water or wetland is determined to have a significant nexus to downstream waters, then each similarly situated water or wetland is considered jurisdictional.

"Significant nexus" is defined as any relationship that is "more than speculative or insubstantial." This is not the same as requiring a nexus actually be significant. Again, because of the expansive nature of what can be included under the "significant nexus," the draft interim guidance is likely to encompass far more waters than have been previously included. The increased scope not only of "significant nexus," but of

[3] 547 U.S. 715, 780 (2006)

what waters may be tested using this test, will likely allow the Agencies to assert jurisdiction far beyond current practice.

Tributaries and Ditches:
Like interstate waters, tributaries are considered jurisdictional under the Agencies' regulations, but do not have the extensive new definition given in this guidance. A tributary now has the physical definition of the presence of a channel with a bed and an ordinary high water mark. Additionally ditches, which were generally excluded under the current guidance, have been included as tidal ditches or non-tidal ditches newly defined as meeting one of the following: (1) the ditch is an altered natural stream, (2) the ditch was excavated in a water or wetland, (3) the ditch has relatively permanent flowing or standing water, (4) the ditch connects two or more jurisdictional waters, or (5) the ditch drains natural water bodies, such as a wetland, into a tributary system of a navigable or interstate water. The new standards for asserting jurisdiction over ditches utilize both the plurality opinion and the Kennedy significant nexus test. As the draft interim guidance asserts, many previously non-jurisdictional ditches will likely be deemed jurisdictional.

The plurality opinion was clear that the Agencies' assertion of jurisdiction over ditches and ephemeral waters was incorrect. However, the draft interim guidance document allows the Agencies to use the plurality standard as a basis for asserting jurisdiction over ditches. Furthermore, the use of the Kennedy standard for asserting jurisdiction over tributaries ignores the fact that Kennedy was skeptical about the Agencies use of an ordinary high water mark as a presumption for asserting jurisdiction. While more detailed than previous guidance, the effect is the same: nearly everything that connects to a navigable water is jurisdictional. Both the plurality opinion and Kennedy rejected this assertion in *Rapanos*.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 3 0 2011

OFFICE OF WATER

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of June 30, 2011, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson and Assistant Secretary of the Army for Civil Works (Army) Jo-Ellen Darcy regarding draft guidance clarifying the definition of "waters of the United States (WUS)." I understand your interest in the significant issues associated with the geographic scope of the Clean Water Act (CWA), which are so central to the Agency's mission of assuring effective protection for human health and water quality for all Americans. As the senior manager for the EPA's national water program, I appreciate the opportunity to respond to your letter.

Recognizing the importance of clean water and healthy watersheds to our economy, environment, and communities, on April 27, 2011, the EPA and the U.S. Army Corps of Engineers (Corps) released draft guidance that would update existing policies on where the CWA applies. I want to emphasize that this guidance was issued in draft and is not in effect. The agencies published the draft guidance in the *Federal Register* on May 2, 2011, and extended the public comment period until July 31, 2011. The guidance will not be made final until the EPA and the Corps review these comments and make any revisions to the guidance after careful consideration of all public input.

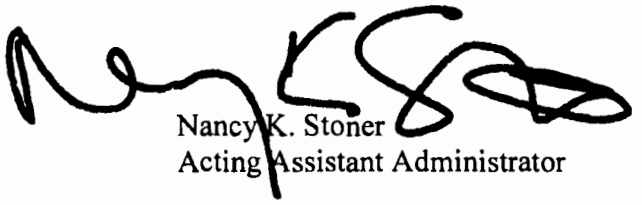
It is also important to clarify that the draft guidance would not change existing requirements of the law nor increase the geographic scope of waters currently authorized under the law and interpreted by the Courts. The extent of waters covered by the Act remains significantly less than the scope protected under the law prior to Supreme Court decisions in *SWANCC* and *Rapanos*, and the agencies' guidance cannot change that. We believe that guidance will be helpful in providing needed improvements in the consistency, predictability, and clarity of procedures for conducting jurisdictional determinations, without changing current regulatory or statutory requirements, and consistent with the relevant decisions of the Supreme Court.

I share your interest in proceeding with an Administrative Procedure Act rulemaking as soon as possible to modify the agencies' regulatory definition of the term "waters of the United States" to reflect the Supreme Court decisions in *SWANCC* and *Rapanos*. Rulemaking assures an additional opportunity for the states, the public, and stakeholders to provide comments on the scope and meaning of this key regulatory term.

Clean water provides critical health, economic, and livability benefits to American communities. Since 1972, the CWA has kept billions of pounds of pollution out of American waters, and has doubled the number of waters that meet safety standards for swimming and fishing. Despite the dramatic progress in restoring the health of the Nation's waters, an estimated one-third of American waters still do not meet the swimmable and fishable goals of the CWA. Additionally, new pollution and development challenges threaten to erode our gains, and demand innovative and strong action in partnership with Federal agencies, states, and the public to ensure clean and healthy water for American families, businesses, and communities. The EPA and the Corps look forward to working with the public, our federal and state partners, and Congress to protect public health and water quality, and promote the nation's economic security.

I appreciate the opportunity to respond to your letter. I hope you will feel free to contact me if you have additional questions or concerns, or your staff may call Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836.

Sincerely,



Nancy K. Stoner
Acting Assistant Administrator

UNITED STATES SENATOR-NORTH DAKOTA
KENT CONRAD

530 Hart Senate Office Building
Washington, DC 20510
(202) 224-2043
Fax: (202) 224-7776

DATE: 7-1-09

TO: Brenda

FAX #: 501 1519

FR: Joe McGarvey 224-0839

NUMBER OF PAGES (including cover): 5

COMMENTS:

Attached is a copy of a letter From Sen. Conrad and 24 other senators. Sen. Mark Udall was omitted From the letter - could you please include him in any response EPA may send?

With thanks

Joe McGarvey

United States Senate

WASHINGTON, DC 20510

June 26, 2009

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

We understand the EPA is evaluating its regulatory options for the management of coal combustion byproducts ("CCBs") and plans to propose federal management standards for CCBs by the end of the year. This issue involves an important component of the nation's overall energy policy. EPA's decision could affect electricity costs from coal-fired plants, the continued viability of CCB beneficial use practices (which play a significant role in the reduction of greenhouse gases), and the ability of certain power plants to remain in service. It is important, therefore, that the final rule reflect a balanced approach to ensure the cost-effective management of CCBs that is protective of human health and the environment, while also continuing to promote and encourage CCB beneficial use. As explained below, we believe the federal regulation of CCBs pursuant to RCRA's Subtitle D non-hazardous waste authority is the most appropriate option for meeting these important goals.

As part of its evaluation of this issue, EPA has wisely sought input from the States regarding their preferences with respect to the three regulatory options under consideration: (1) federal regulation of CCBs as non-hazardous solid waste under RCRA Subtitle D, (2) regulation as hazardous wastes under RCRA Subtitle C, and (3) a hybrid approach where CCBs would be regulated as hazardous wastes with an exception from hazardous waste regulation for CCBs that are managed in conformance with specified standards.

We understand, thus far, approximately twenty (20) states, in addition to the Association of State and Territorial Solid Waste Management Officials, have responded to EPA's request for input on this issue and every State has taken the position that the best management option for regulating CCBs is pursuant to RCRA Subtitle D. The States effectively argue they have the regulatory infrastructure in place to ensure the safe management of CCBs under a Subtitle D program and, equally important, make clear that regulating CCBs as hazardous waste would be environmentally counter-productive because it would effectively end the beneficial use of CCBs. For the same reasons, the Environmental Council of States ("ECOS") has issued a declaration expressly arguing against the regulation of CCBs as hazardous waste under RCRA.

We respectfully suggest the unanimous position of informed State agencies and associations should not be ignored as EPA evaluates its regulatory options for CCBs. Among other things, the Bevill Amendment to RCRA directs that, as part of its decision-making process for CCBs, EPA will consult with the States "with a view towards avoiding duplication of effort."

RCRA 8002(n). The States have made clear regulating CCBs under RCRA Subtitle C would result in regulatory overkill and effectively end CCB beneficial uses.

The States' position is not surprising since it reflects EPA's own conclusions on four separate occasions that CCBs do not warrant hazardous waste regulation. EPA has issued two formal reports to Congress, in 1988 and 1999, concluding CCBs do not warrant hazardous regulation. Most recently, in 2000, EPA again determined the better approach for regulating CCBs is "to develop national [non-hazardous waste] regulations under subtitle D rather than [hazardous waste regulations under] subtitle C." 65 Fed. Reg. 32214, 32221 (May 22, 2000). In reaching this decision, EPA agreed with the States that "the regulatory infrastructure is generally in place at the state level to ensure adequate management of these wastes" and regulating CCBs as hazardous "would adversely impact [CCB] beneficial use." *Id.* at 32217, 32232.

As we know you appreciate, the impact on CCB beneficial use is another statutory consideration that EPA must consider in evaluating its regulatory options for CCBs. *See* RCRA §8002(n)(8); 65 Fed. Reg. at 32232. Both EPA and the States have recognized that regulating CCBs as hazardous waste would have an adverse impact on CCB beneficial use. As EPA reasoned in selecting the Subtitle D approach in its 2000 regulatory determination, it did not want "to place any unnecessary barriers on the beneficial uses of [CCBs], because they conserve natural resources, reduce disposal costs and reduce the total amount of wastes destined for disposal." *Id.* at 32232.

In addition to promoting increased CCB beneficial use, a Subtitle D approach appears to be protective of human health and the environment, as EPA has already concluded that State programs are in place to effectively regulate CCBs. *Id.* at 32217. A 2006 EPA/DOE report reinforces this conclusion by confirming the recent development of even more robust state controls for CCBs.

In light of the recent ash spill disaster at the Tennessee Valley Authority's Kingston facility, we certainly understand the EPA raising concerns about the handling and storage of CCBs. We believe appropriate precautions should be taken by all responsible operators, that parties who have violated regulations should be held accountable, and the public health and welfare should be protected. However, in light of how states and the EPA have historically approached the regulation of CCBs, we respectfully urge the EPA to work closely with the States in deliberating regulations for the best management of coal combustion byproducts and give thoughtful consideration to developing a performance-based federal program for CCBs under RCRA's Subtitle D non-hazardous waste authority.

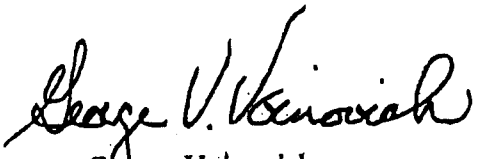
Thank you for your consideration of our views.

Sincerely,

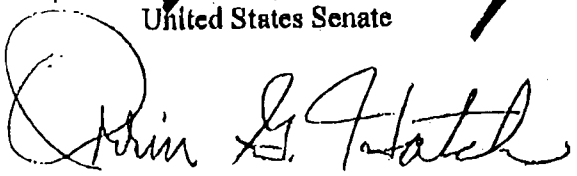
Kent Conrad
United States Senate

Sam Brownback
United States Senate

Byron Dorgan
United States Senate

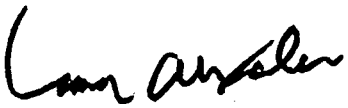


George Voinovich
United States Senate

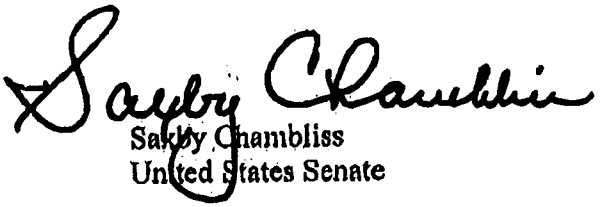


Orrin G. Hatch
United States Senate

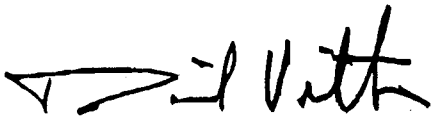
James M. Inhofe
United States Senate



Lamar Alexander
United States Senate

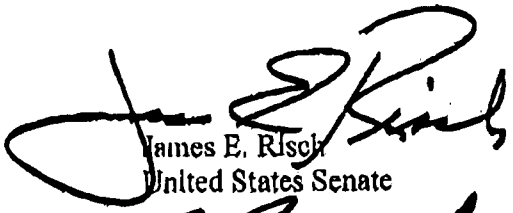


Saxby Chambliss
United States Senate



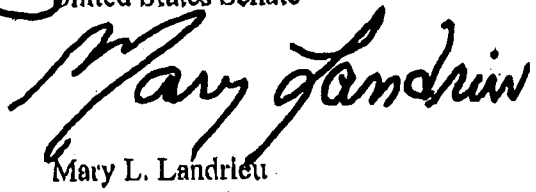
David Vitter
United States Senate

Claire McCaskill
United States Senate



James E. Risch
United States Senate

Jim Bunning
United States Senate



Mary L. Landrieu
United States Senate

Barbara A. Mikulski
United States Senate

Evan Bayh
United States Senate

Michael B. Enzi
United States Senate

Bob Corker
United States Senate

John Thune
United States Senate

Thad Cochran
United States Senate

John Barrasso
United States Senate

Christopher S. Bond
United States Senate

Blanche L. Lincoln
United States Senate

Mark L. Pryor
United States Senate

Johnny Isakson
United States Senate

Amy Klobuchar
United States Senate

Senator Mark Udall's signature omitted from original letter - please include Sen. M. Udall in any response

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 3 0 2009

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of June 26, 2009, expressing your interest in the U.S. Environmental Protection Agency's (EPA) pending rulemaking governing the management of coal combustion residuals (CCR). In your letter, you urged the agency to work closely with the states as we consider options to safely manage CCR.

EPA intends to issue a proposal before the end of this calendar year. EPA has been meeting with state associations to understand their member's perspectives, and to generally share the options under consideration by EPA. We will include your letter, as well as those EPA has received from the states, in the docket for the rulemaking.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Amy Hayden, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0555.

Sincerely,

Mathy Stanislaus
Assistant Administrator

AL-08-000-6433

OFFICES:
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Cheyenne 307-772-2477
Casper 307-261-6572
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website enzi.senate.gov

United States Senate

WASHINGTON, DC 20510-5004

MICHAEL ENZI
WYOMING

COMMITTEES:
Health, Education, Labor and Pensions
Ranking Member
Banking, Housing and Urban Affairs
Small Business
Budget

May 1, 2008

Steve Johnson, Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Administrator Johnson:

I have been made aware of the development of the Pre-Ignition Catalytic Converter technology. It is my understanding that this technology can be installed on vehicles to improve fuel economy. I have enclosed a scanned copy of a website describing the technology. In the description, it explains that the Agency has not approved its use. I would appreciate more information on the Agency's assessment of this technology and any regulatory issues that may impact the use of this technology. I look forward to seeing your response.

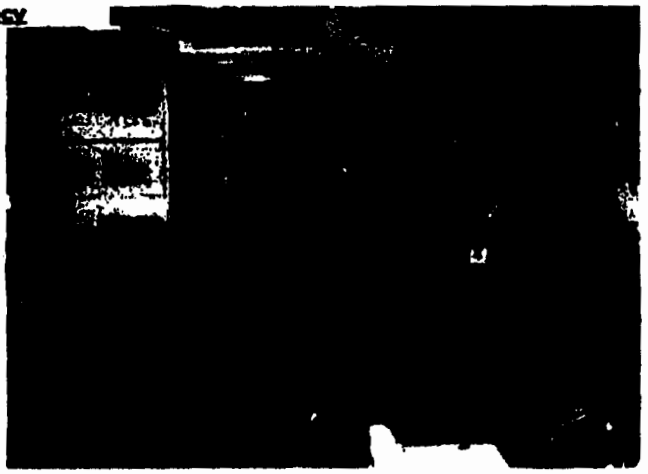
Sincerely,

Mike Enzi

Michael B. Enzi
United States Senator

MBE:cml

chnology - post WIREC 2008



The Pre Ignition Catalytic Converter has arrived!

This Dodge van is the first PICC modified vehicle in the world as unveiled at the WIREC 2008 convention held in Washington DC March 4-6, 2008

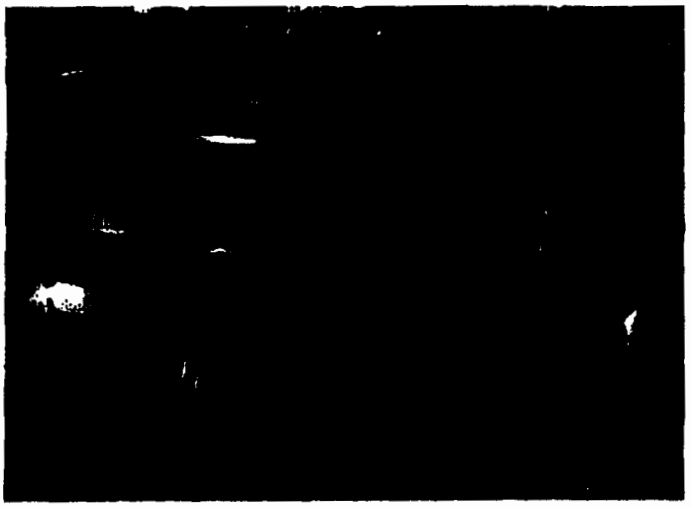
Dutchman Enterprises publicly introduces the Pre Ignition Catalytic Converter technology

We want all concerned citizens to understand what it will take for us to solve your fuel economy problems and America's as well. We have your answer, but having the technology is only one part of the solution. We reported at the WIREC event in DC as we pointed to the Pre Ignition Catalytic Converter unveiling, ***"This is the most fuel efficient and***

Pre Ignition Catalytic Converter
PICC Awaiting EPA Approval
PICC Awaiting EPA Approval
Our Hydro Assist Fuel Cell
View the PICC Video
View the HAPC Video
Request PICC Quote
Certified Mechanic Training
Free Electricity Program
UCB of A Current Products
Future Products Coming Soon
UCBA Free Look Offer
Energy Independence
The Energy Alternative
BWT First Edition Catalogue
Awesome Affiliate Opportunity
One UCBA Dealership Available
Kingdom Grant for Christians
BWT Directory

least polluting vehicle in America, but it is illegal to run it on the highway!" The reason for that is that in order to install the PICC, we have to remove your existing factory catalytic converter and re-program the current emissions control system (your on-board computer).

If you modify the factory system that is called "tampering" and it is very, very illegal according to federal law. In order to legally modify low mileage and very polluting vehicles and make them high mileage and non polluting vehicles it will require either that the Pre Ignition Catalytic Converter be accepted as a replacement for the existing catalytic converter or a new law be enacted and passed by the US Congress allowing our PICC emissions control system to be installed on vehicles. If the EPA would test our PICC, they could approve it as a replacement for the factory catalytic converter. We could then begin the distribution of the answer to America's mobile energy problem. So, it is either up to the Environmental Protection Agency, the US Congress, or a significant number of you ***"We the People"*** to correct this situation.



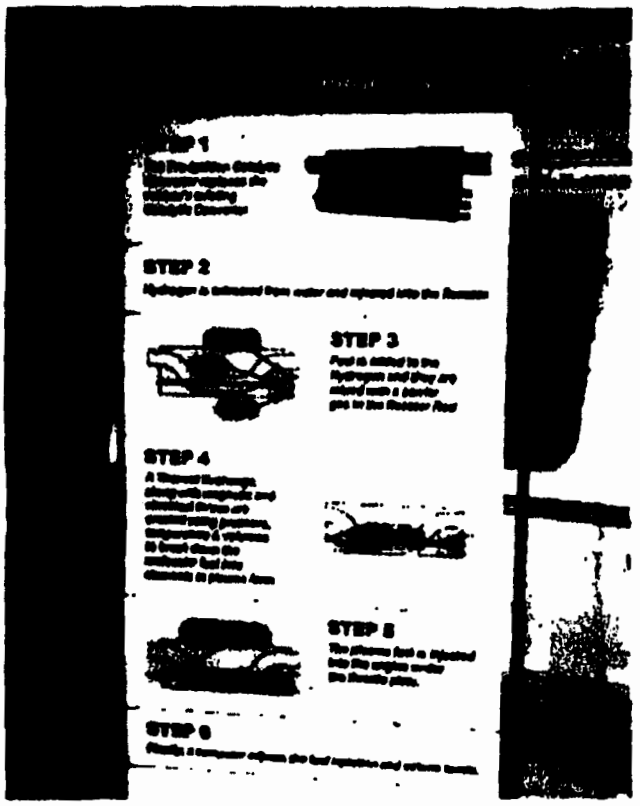
The problem we face is that the EPA has totally ignored us, and our technologies, for years. We can only assume that is happening on behalf of big oil and car manufacturing interests. Not fully burning the fuel is obviously critical for fuel sales and using unburned fuel to destroy engines certainly drives new car sales. We have tried to get the EPA to evaluate our technology to no avail.

Those of you who have been following us for a while know that two years ago President Bush sent his energy advisor (who was in charge of finding alternative renewable energy

devices) to our facility to spend the day with us. The question was; ***What could they do to help us?*** The President's advisor agreed to get the white house involved in sponsoring a presentation in DC in which they promised that the top officials of the EPA and the DOE would be present, as well as the major media, and they would get the EPA to test our technology.

When the Republicans lost the House and Senate that somehow jeopardized the presentation. A follow up visit to our facility with an advisor from ACORE (supposedly also sponsored by the white house) resulted in a run around that finally ended at the Pentagon. **We will not deal with the military!** Both of these Presidential advisors indicated that they were very impressed with our technologies.

Hearing of the largest renewable energy show in the world, the WIREC 2008 Event, **hosted by the federal government**, we invited ourselves to this event and introduced the very first PICC modified vehicle to the world. We discussed the process of the Pre Ignition Catalytic Converter technology and offered to have the EPA test it. We encouraged those in the crowd to coerce, request, or other wise encourage the EPA to test our device.



Some of those who attended our presentations did try to get the EPA (who had a booth at the event) to respond. One mechanical engineer who was sure he could get them to respond was told by the EPA, that if we really wanted our technology to be tested all we needed to do was to form a relationship with the Ford Motor Company and Ford would certainly know how to get it tested. That just served to compound our skepticism. **Why would we need a relationship with a major auto manufacturer just to get our world saving device tested?**

We are filing all the forms and taking the usual route through the EPA approval process, but we are not hopeful that they will be motivated to expedite any testing on our behalf. We also met a lobbyist who is connected in Congress concerning renewable energy issues. She tells us we should get a congressional representative to champion our cause and have another private meeting with congress to which we will bring our technology for testing. We will test the PICC technology ourselves for them at that meeting, and they can also have any independent party they want present to test it as well.

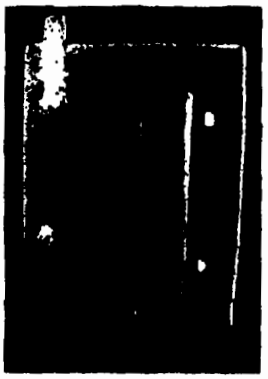
When we make our clean air point to them, they can give us permission to take it on the highway and prove the fuel efficiency as well. We ran our engines on stationary dynamometer tests, so we already know how efficient they are. We have never been allowed to test the process under actual road conditions. To drive this on a public highway, otherwise, would be illegal and the punishment is severe ($250,000 per incident).

We are working to cause this event in Congress to happen as soon as possible. It would be **helpful for you to send your representatives a copy of** our press release on our behalf to try to get them involved in this important issue. As soon as we can get approval, we can offer you a PICC upgrade quote for your vehicle and you can drastically reduce your dependance on the price of fuel AND end all the pollution from your vehicle.

An updated explanation of the PICC process:

In order to show you how exciting this technology is we will explain even more of how it works beyond what was originally revealed in our promotional video. The following is the presentation of our Pre Ignition Catalytic Converter technology at the WIREC event.

Setting up the vehicle:



The complete PICC technology consists of a two-step process. The first step is to install the Hydro-Assist Fuel Cell kit. As we explain the PICC process you will see why this first step is so important. So, first I will briefly explain the HAFC technology. A fuel cell filled with water is hooked up to the battery and charged with caustic. The electricity ionizes the water and the hydrogen and oxygen are separated. The monatomic hydrogen and oxygen is injected into the air intake and mixes with the fuel when it is burned.

MIT (Massachusetts Institute of Technology) has completed studies on how monatomic hydrogen can be used to increase the flame spread in the burn causing the fuel to burn more fully. The monatomic oxygen increases the octane level of the fuel, and makes a richer fuel. When fuel is enriched it can be "leaned out" and less is used for the same power output. In addition to using water gas for these purposes, our "HAFC Covalizer" is used to break the covalent bonds of the fuel and make it easier to burn. Gasoline is very complex molecularly and very compressed as a fuel.

A vaporizer uses the heat from the engine to help vaporize the fuel and magnets are used to also somewhat ionize the fuel. The whole process serves to get far more of the fuel burned than usual, and that improves mileage and decreases pollutants dramatically. The HAFC process is currently legal, because the emissions control system and exhaust are not touched. We experienced an average increase in fuel economy of pretty close to double mileage in the first 24 vehicles we

installed **ONLY** our HAFC kit on.

The FIRST STEP in the process is to modify the car to the HAFC technology. Many of the smaller four cylinder vehicles have seen over 100 miles per gallon highway with the HAFC alone and will actually save so much that it will not be worth upgrading them to the PICC. Now let us explain the Pre Ignition Catalytic Converter and you will see how the two technologies fit together.

The Pre Ignition Catalytic Converter technology:

To install the PICC, the existing catalytic converter MUST come off (that is currently illegal to do.) The PICC reactor is placed right where the catalytic converter was. For a great explanation of how the Pre Ignition Catalytic Converter process turns ordinary fuel into plasma, watch the PICC video. Once the plasma has been made, we could inject that into the engine process and increase mileage, but the plasma exhaust would still emit pollutants in the form of NOX and we are environmentalists so we cannot allow that.

The next step of the process we have not discussed on our web site or on the video presentation is a major part of the total process. We have reported that our mileage test (from 20mpg to 180 mpg) on the stationary dynamometer under load conditions went from 18 pounds of fuel per hour to only two pounds of fuel per hour (**nine times as efficient.**) That has been difficult for some people to understand.

That would mean the standard process would have to have been inordinately inefficient. But, we are actually taking the regular gasoline that is formulated by the refiner and sold to the consumer and then, after we turn it into a plasma state, we inject the plasma into another double tank process that reforms the fuel. Ordinary gasoline burns at an efficiency of about 18% in its original concentrated, molecularly sophisticated, compact state. What we are doing is reforming the fuel into a different fuel that is methane, ethane, butane, propane, and even some pentane.

Even though the reformed fuel contains the same amount of molecules as what was in the regular gasoline, when it is reconfigured, it occupies a greater volume. **We can turn one**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 3 0 2008

OFFICE OF
AIR AND RADIATION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of May 1, 2008, to the U.S. Environmental Protection Agency (EPA) concerning the Pre Ignition Catalytic Converter (PICC) marketed by Dutchman Enterprises.

Dutchman Enterprises claims that the PICC, in combination with another device, the Hydro-Assist Fuel Cell (HAFC), significantly improves vehicle fuel economy. I should note that EPA has a long-standing program in place to evaluate aftermarket fuel-saving devices. This program, commonly identified as the "511 Program," is a voluntary program to evaluate the fuel economy claims of such devices. Regulations describing this program are located at 40 CFR Part 610. More information about the 511 program can be found at the following web site: www.epa.gov/otaq/consumer/b00003.pdf. Dutchman Enterprises has not contacted EPA to evaluate any of their aftermarket devices.

Regarding the PICC device, because this is a catalytic converter replacement, special rules apply. The Clean Air Act prohibits tampering with emission controls on certified motor vehicles. Because the PICC would replace the existing catalytic converter on a vehicle, it could be considered tampering. There are tampering enforcement exemptions for installing aftermarket catalysts that meet specific performance and durability standards. However, these exemptions are not intended to allow the replacement of properly operating original equipment catalytic converters under warranty, because the exemption criteria allow for less expensive catalytic converters that do not perform as well as original equipment catalysts. Therefore, such aftermarket catalysts can only be installed on vehicles that are no longer covered by the original catalytic converter warranty (8 years or 80,000 miles) and if the catalyst has failed. The PICC could be legally installed only under those conditions and if the aftermarket converter performance and durability requirements are met.

We note that the Dutchman Enterprises web site also states that the PICC installation is part of a two-step installation. They state the HAFC kit must be installed first. Depending on how the HAFC system works, there is a risk of a tampering violation regarding the installation of that device. In general, any aftermarket device or system is considered tampering unless there is a reasonable basis to conclude that emission levels are not increased. Reasonable basis usually means that the device or system is tested on a vehicle using the same testing procedures as was

used to certify the vehicle. I am enclosing a document that provides guidance about aftermarket parts and tampering. There are also regulations available to allow aftermarket part manufactures to voluntarily certify the part with EPA. The installation of a certified part under this program would not be considered a tampering violation. The reference for that program is contained in the enclosed guidance document.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Diann Frantz, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-3668.

Sincerely,

Robert J. Meyers
Principal Deputy Assistant Administrator

Enclosure: May 11, 2004 Guidance Letter on Aftermarket Parts

AL-13-000-5102

United States Senate

WASHINGTON, DC 20510

April 23, 2013

The Honorable Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, D.C. 20460

Dear Acting Administrator Perciasepe:

The Environmental Protection Agency (EPA) has indicated that it plans to move forward with a formal rulemaking to clarify the definition of "waters of the United States" under the Clean Water Act (CWA).[1] We understand that the agency has yet to determine whether it will go forward with finalizing the proposed guidance in addition to the rulemaking or choose to conduct only a rulemaking.[2] As you know, this rulemaking is of extreme significance, as the scope of the final rule will indicate whether EPA intends to redefine when isolated wetlands, intermittent streams, and other non-navigable waters should be subject to regulation under the CWA.

We write to express continued concern over the possible finalization of the proposed guidance. We request that you formally withdraw the draft guidance sent to Office of Management and Budget (OMB) in February 2012, and redirect the agency's finite resources.[3] The draft guidance promulgated in 2011, if finalized, could expand the scope of the waters to be regulated beyond that intended by Congress. Moreover, leaving the guidance in place would further frustrate any potential rulemaking process. Given the significance of redefining jurisdictional limits to impose CWA authority, a formal rulemaking process provides a greater opportunity for public input and greater regulatory certainty than a guidance document.

With regard to the rulemaking, we ask that you stay within the confines of current law and eschew attempts to expand jurisdiction beyond the intent of Congress. Any rulemaking should identify limits to EPA's jurisdiction under the statute consistent with those articulated in the Supreme Court decisions of *SWANCC*[4] and *Rapanos*.[5] In both of these cases, the U.S.

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[1] Clean Water Act Definition of "Waters of the United States," http://water.epa.gov/lawsregs/guidance/wetlands/CWAwaters.cfm.

[2] *Fate Of Controversial Guide Seen As Key To Rule Clarifying CWA Scope*, InsideEPA.com, Mar. 8, 2013, *available at* http://insideepa.com/Water-Policy-Report/Water-Policy-Report-03/11/2013/fate-of-controversial-guide-seen-as-key-to-rule-clarifying-cwa-scope/menu-id-127.html.

[3] *Draft Guidance on Identifying Waters Protected by the Clean Water Act* (May 2, 2011), *available at* http://water.epa.gov/lawsregs/guidance/wetlands/upload/wous_guidance_4-2011.pdf.

[4] Solid Waste Agency of Northern Cook County. v. U.S. Army Corps of Engineers, 531 U.S. 159 (2001).

[5] Rapanos v. United States, 547 U.S. 715 (2006).

Supreme Court made it clear that not all water bodies are subject to federal jurisdiction under the CWA. Any proposed rule should reflect this principle.

As you are aware, several recent cases indicate that the courts remain critical of EPA's efforts to expand jurisdiction or aggressively exercise the agency's enforcement powers. For example, in March 2012 the Supreme Court unanimously rejected EPA's position that a compliance order issued under the CWA was not final agency action subject to judicial review.[6] More recently, the District Court for the Eastern District of Virginia held that EPA lacks authority under the CWA to establish a Total Maximum Daily Load (TMDL) for the flow of a non-pollutant (i.e., stormwater discharges) to regulate pollutant levels of an impaired water body.[7] Just last month, the Supreme Court again thwarted attempts to expand jurisdiction when it held that the flow of water from an improved portion of a navigable waterway into an unimproved portion of the same waterway does not qualify as a "discharge of a pollutant" under the CWA.[8] These cases demonstrate the readiness of the courts to ensure that EPA does not abuse the statutory and regulatory authority granted to it by Congress.

Accordingly, we request that you formally withdraw the proposed guidance and proceed with a formal rulemaking process. In conducting this process EPA should not attempt to expand its statutory authority beyond that intended by Congress. The final rule should reflect the principles promulgated in recent case law and identify limits on the agency's jurisdiction under the CWA.

Sincerely,

John Barrasso
U.S. Senator

David Vitter
U.S. Senator

Roy Blunt
U.S. Senator

John Boozman
U.S. Senator

[6] Sackett v. EPA, 132 S.Ct. 1367 (2012).
[7] Virginia Dep't of Transp. v. EPA, No. 1:12–CV–775, 2013 WL 53741 (E.D.Va. 2013).
[8] Los Angeles County Flood Control Dist. v. Natural Res. Def. Council, Inc., 133 S.Ct. 710 (2013).

Saxby Chambliss
U.S. Senator

Daniel Coats
U.S. Senator

Tom Coburn
U.S. Senator

Thad Cochran
U.S. Senator

John Cornyn
U.S. Senator

Mike Crapo
U.S. Senator

Michael Enzi
U.S. Senator

Deb Fischer
U.S. Senator

Chuck Grassley
U.S. Senator

Orrin Hatch
U.S. Senator

Dean Heller
U.S. Senator

John Hoeven
U.S. Senator

James Inhofe
U.S. Senator

Johnny Isakson
U.S. Senator

Mike Johanns
U.S. Senator

Mike Lee
U.S. Senator

John McCain
U.S. Senator

Jerry Moran
U.S. Senator

Lisa Murkowski
U.S. Senator

Pat Roberts
U.S. Senator

Marco Rubio
U.S. Senator

Tim Scott
U.S. Senator

Jeff Sessions
U.S. Senator

John Thune
U.S. Senator

Roger Wicker
U.S. Senator

Ron Johnson
U.S. Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 19 2013

OFFICE OF WATER

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your April 23, 2013, letter to the U.S. Environmental Protection Agency Acting Administrator Bob Perciasepe expressing your concern regarding potential issuance of the EPA and the Department of the Army (Army) guidance clarifying the scope of the Clean Water Act (CWA) jurisdiction. I understand your interest in this important issue.

There is an urgent need to clarify the geographic scope of protections provided under the CWA. The EPA and Army issued joint guidance in 2008 to provide consistent procedures for identifying jurisdictional waters under their regulations after the Supreme Court decisions of *SWANCC* and *Rapanos*. The 2008 guidance, however, has created uncertainty, raised costs, and contributed to delays for those asking whether or not particular waters are covered by the CWA. In response to these problems, the EPA and the U.S. Army Corps of Engineers developed new guidance as a timely interim step to address the need for improved procedures. Our long-term goal is to revise our regulations to provide a more comprehensive and effective solution under the Administrative Procedures Act and consistent with the CWA and Supreme Court decisions. The agencies' guidance is now undergoing interagency review at the Office of Management and Budget. In the meantime, we are also working to prepare a joint notice of proposed rulemaking for public notice and comment. No final decisions have been made on the schedule for either issuance of final guidance or initiation of a notice and comment rulemaking process.

The agencies share your perspective regarding the importance of waters of the United States' rulemaking and agree that such rulemaking may not extend jurisdiction beyond that established by Congress under the law as clarified by Supreme Court decisions in *SWANCC* and *Rapanos*. As you correctly point out, not all waterbodies are subject to protection under the CWA. We believe, however, that the 2008 guidance is unnecessarily vague and confusing, creating avoidable problems in the process of identifying which waters are covered by the CWA. We are eager to respond to these problems in a timely, scientifically valid, and transparent process under the law.

We are pleased that the courts have consistently upheld the agencies' decisions regarding the scope of CWA jurisdiction and it is our intent to continue to implement our responsibilities in a fair, scientifically appropriate, and legally defensible manner. I would emphasize that neither of the court decisions identified in your letter, *Sackett* and *Virginia Department of Transportation,* involved a challenge to an EPA determination regarding the geographic scope of CWA protections.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

AL-13-000-6332

United States Senate

WASHINGTON, DC 20510

June 4, 2013

The Honorable Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, D.C. 20460

Dear Acting Director Perciasepe:

The Environmental Protection Agency (EPA) released farm information for 80,000 livestock facilities in 30 states as the result of a Freedom of Information Act (FOIA) request from national environmental organizations. It is our understanding that the initial release of data contained personal information that was not required by the FOIA request for ten states including Arizona, Colorado, Georgia, Indiana, Illinois, Michigan, Montana, Nebraska, Ohio and Utah. This release included names and personal addresses. EPA redacted the initial data and resent the data only to realize they had again sent out personal information for Montana and Nebraska.

We are writing today to express concern regarding the sensitivity of the data that was released. Unlike most regulated facilities, farms and ranches are also homes and information regarding these facilities should be treated and released with that understanding. We also understand there are additional concerns regarding biosecurity and the safety of our food supply. It is our expectation that EPA will conduct a thorough review of their FOIA policies in relation to sensitive agriculture producer data.

Finally, we have several outstanding questions regarding the data that was released and your process.

1. When EPA proposed making similar data available last year through the National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) Reporting Rule, the Department of Homeland Security and the Department of Agriculture expressed concern due to the biosecurity and producer security implications. This proposal was later withdrawn. Since these agencies have been engaged on the issue in the past, did the EPA consult with the Department of Agriculture or the Department of Homeland Security at any point throughout this process?

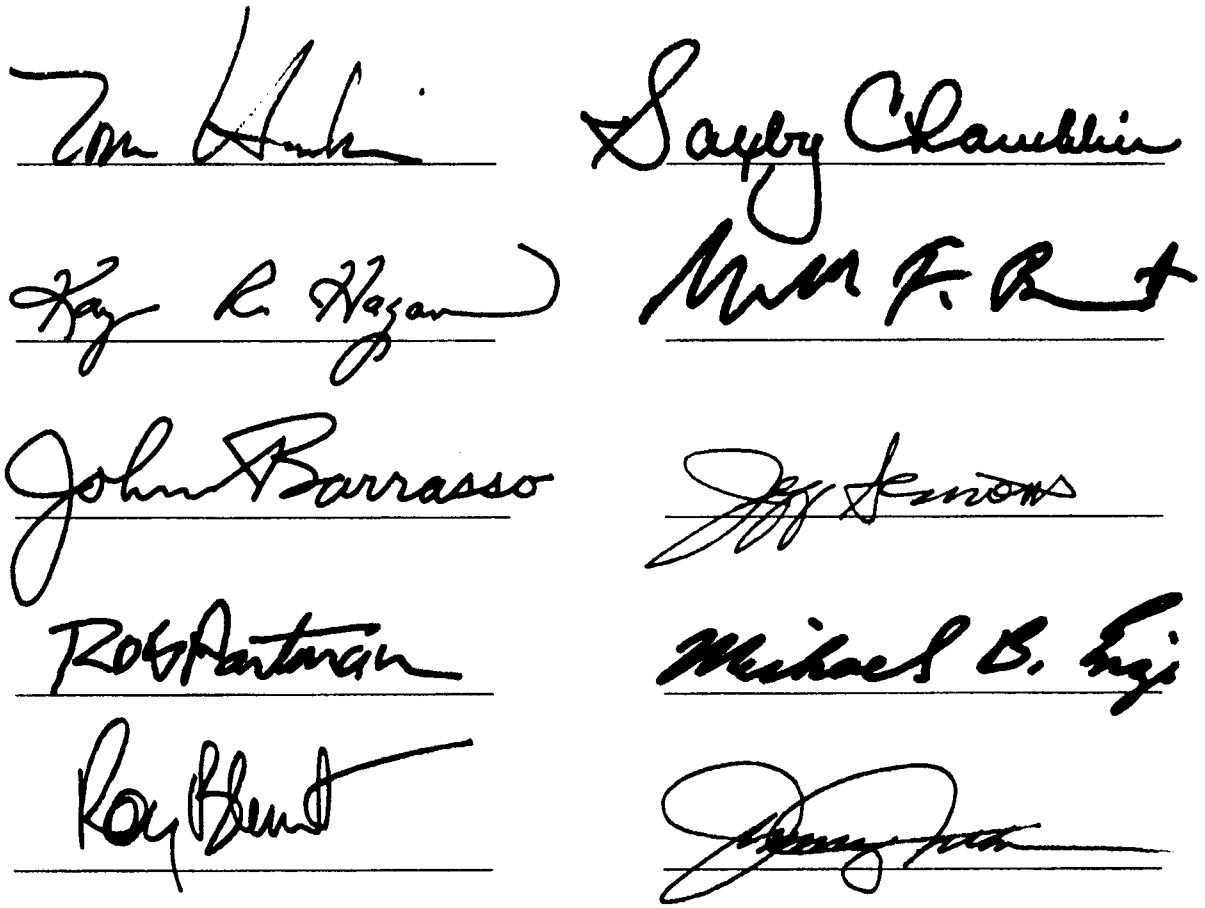
2. We understand that some of the livestock operations whose data was released did not meet the threshold to be qualified as a CAFO. Under what authority did you release this data? Did the FOIA specifically request this data? If not, why was this data released and why was this information not redacted with the other unnecessary data? Why did EPA collect data on small farmers under the CAFO threshold in the first place? What environmental concern does the EPA have that justifies collecting data on farmers who may only have a few animals? As an example, the information EPA compiled on Iowa farmers included the information on an individual who had one pig, and another

individual who had 12 horses. These are just two examples of individuals included in the 80,000 farms that have only a few animals; there are examples in other states of this type of data collection as well. What purpose is served in collecting data on people who only have a few animals?

3. What does the EPA plan to do in the future to ensure that agricultural data is protected?

Thank you for your attention to this matter, we look forward to your response.

Sincerely,



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 15 2013

OFFICE OF WATER

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of June 4, 2013, to the U.S. Environmental Protection Agency expressing concerns about the EPA's recent release of data on concentrated animal feeding operations pursuant to the Freedom of Information Act.

The EPA treats with utmost seriousness the importance of protecting the privacy of Americans recognized by the FOIA, the Privacy Act, and the EPA's Privacy Policy. In recognition of the concerns raised by the animal agricultural industry, the EPA engaged in an exhaustive review of the EPA's FOIA response to determine whether, as the agency had understood, the information the EPA released is publicly available, and whether any revisions to the agency's determination to release the information is warranted under the privacy exemption (Exemption 6) of the FOIA.

As a result of this comprehensive review, we have determined that, of the twenty-nine states[1] for which the EPA released information, all of the information from nineteen of the states is either available to the public on the EPA's or states' websites, is subject to mandatory disclosure under state or federal law, or does not contain data that implicated a privacy interest. The data from these nineteen states is therefore not subject to withholding under the privacy protections of FOIA Exemption 6. The EPA has determined that some personal information received from the ten remaining states[2] is subject to Exemption 6.

The EPA has thoroughly evaluated every data element from each of these ten states and concluded that personal information – i.e., personal names, phone numbers, email addresses, individual mailing addresses (as opposed to business addresses) and some notes related to personal matters – implicates a privacy interest that outweighs any public interest in disclosure.

We amended our FOIA response to redact portions of the data provided by these ten states. The redacted portions include telephone numbers, email addresses, and notations that relate to personal matters. They also include the names and addresses of individuals (as opposed to business facility names and locations, though facility names that include individuals' names have been redacted). We believe that this amended FOIA response continues to serve its intended purpose to provide basic location and other information about animal feeding operations, in order to serve the public interest of ensuring that the EPA effectively

[1] The twenty-nine states are: Alabama, Arkansas, Arizona, Colorado, Florida, Georgia, Iowa, Illinois, Indiana, Louisiana, Maryland, Maine, Michigan, Missouri, Montana, North Carolina, North Dakota, Nebraska, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming.
[2] The ten remaining states are: Arizona, Colorado, Georgia, Indiana, Illinois, Michigan, Montana, Nebraska, Ohio, and Utah.

implements its programs to protect water quality, while addressing the privacy interests of the agricultural community.

The EPA has delivered the amended data to the FOIA requestors, and has also provided copies to representatives of the animal agricultural industry. In addition, EPA requested that the previous data releases be returned to the agency, and all original requestors subsequently complied with this request. The agency has asked agricultural stakeholder groups to report to the EPA if any activities happen on their farms that they believe directly resulted from this FOIA release.

The information that was released pursuant to the FOIA requests contained information on both AFOs and CAFOs. Though the EPA's request to states only pertained to information on permitted and unpermitted CAFOs, some states also provided information on additional animal feeding operations. Animal feeding operations are defined differently by the EPA and by each individual state. For instance, sometimes the term AFO is used to mean all livestock operations regardless of size, and sometimes it is used to mean only small operations. Similarly, sometimes the term CAFO is used to mean all livestock operations regardless of size, and sometimes it is used to mean only large operations that meet federal animal unit thresholds.

Our understanding was that the FOIA requestors were asking us for all of the releasable animal feeding operation information the agency had collected from the states regardless of how the EPA or the states would categorize it. Accordingly, the EPA gave the requestors all the releasable data the states gave the agency. One FOIA request stated "all records relating to and/or identifying sources of information about CAFOs, including the AFOs themselves, and the EPA's proposed and intended data collection process for gathering that information.[3]" Two other FOIA requests stated "all records...relating to EPA's withdrawal of the proposed NPDES CAFO Reporting Rule...," including, "any records providing factual information concerning the completeness, accuracy, and public accessibility of states CAFO information...[4]"

As your letter reflects, the EPA initially proposed a rule that would have required CAFO owners to submit information about their operations to the agency. As part of the inter-agency review process, the U.S. Departments of Homeland Security (DHS) and Agriculture (USDA) provided comments to the proposed collection rule. It is through this inter-agency process that the EPA engaged with both DHS and USDA.

The agency is working to ensure that any future FOIA requests for similar information are reviewed carefully to ensure that privacy-related information is protected to the extent required by FOIA. More specifically, key leaders in our Office of Environmental Information and FOIA experts are developing training for all agency employees, including those in the Office of Water (OW), on the agency's obligations under the FOIA and responding to FOIA requestors. The training will focus on all aspects of processing a FOIA request, including how to properly safeguard information that may be exempt from mandatory disclosures, and will become a regular practice to agency personnel.

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[3] FOIA request from Eve Gartner of Earthjustice. Dated September 11, 2012

[4] FOIA request from Jon Devine of NRDC and Karen Steuer of Pew. Dated October 24, 2012

Again, thank you for your letter. The EPA is committed to conducting its activities with the highest legal and ethical standards and in the public interest. If you have further questions, please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at 202-564-0255.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

AL-10-000-2604

Congress of the United States
Washington, DC 20515

February 16, 2010

The Honorable Lisa P. Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

Wyoming and other western states face a potential grasshopper infestation this summer the magnitude of which has not been seen in 25 years. In light of this, we write to seek the Environmental Protection Agency's (EPA) proactive assistance in ensuring that farmers and ranchers have access to the full panoply tools to combat the possible grasshopper infestation.

According to United States Department of Agriculture (USDA) surveys, many areas in the west experienced much higher grasshopper populations in the summer of 2009 than were anticipated. In fact, the grasshopper population in some areas was quadruple the level normally considered by pest coordinators to be a strong indicator for the use of chemical control methods. Many livestock producers in our state suffered significant economic loss as a result of last summer's grasshopper infestation.

While 2009 was a difficult year, forecasts for the summer of 2010 show that the infestation could be worse and more widespread. Forecast maps indicate that 160 million acres of western lands will be impacted by grasshoppers. The resulting damage to crops and livestock forage could be catastrophic. An infestation of this severity has not been seen since 1985, a year when the USDA's Animal and Plant Health Inspection Service (APHIS) treated over 20 million acres of public rangeland for grasshoppers.

In addition to cooperative work on public lands, private landowners are also in dire need of federal assistance to combat the coming plague. Unfortunately, the most successful chemical treatment for use on wheat, Thimet, which was previously labeled for use on wheat, is not currently labeled for that purpose. The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) provide mechanisms to allow for extra-label use of pesticides in the case of a crisis or special local need. While both of these mechanisms grant states authority to either add uses to pesticides, or request the necessary label change from the EPA, we respectfully urge you to take whatever proactive steps are necessary to ensure farmers and ranchers stand a fighting chance this summer against this infestation.

Thank you for your early attention to this pending crisis, and we look forward to your timely reply.

Sincerely,

U.S. Senator Michael B. Enzi

U.S. Senator John Barrasso, M.D.

U.S. Representative Cynthia M. Lummis

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR - 6 2010

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

The Honorable Mike Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of February 16, 2010, to Administrator Lisa P. Jackson of the U.S. Environmental Protection Agency (EPA) also signed by Senator Barrasso and Congresswoman Lummis. Your letter expresses concern regarding a potential grasshopper infestation this summer in Wyoming and other western states. Administrator Jackson asked me to respond to your letter as my office is responsible for the regulation of pesticides in the United States. I appreciate the opportunity to address the issues you have raised in your letter.

While we are aware that grasshopper infestations may be more widespread this year, we have not heard from any state or federal agencies regarding the existence of an emergency situation. However, based on the concerns expressed in your letter, I have asked EPA's Office of Pesticide Programs to contact the State of Wyoming's Department of Environmental Quality to determine if a Section 18 is under development and to ensure we are prepared to take appropriate steps to address an impending emergency in a timely fashion.

I also want to address your comments regarding a possible emergency situation that would require use of the pesticide Thimet as a tool to control grasshoppers infesting wheat. As you may know, Thimet is an organophosphate pesticide, which is a class of agricultural use pesticides that affect the functioning of the nervous system. Any request for an emergency exemption under the Federal Insecticide, Fungicide and Rodenticide Act must meet the safety standard set by the Food Quality Protection Act. This would require an extensive review, including aggregate and cumulative safety evaluations to ensure a safety finding that is protective of the food supply, before making a final decision on the emergency exemption request.

The Agency stands ready to work with any requests to address emergency pest situations and to discern whether the Agency can support a proposed pesticide use with a safety finding. Again, thank you for your letter. If you have further questions, please contact me or your staff may call Ms. Christina Moody in the Office of Congressional and Intergovernmental Relations at 202-564-0260.

Sincerely,

Stephen A. Owens
Assistant Administrator

AL-12-002-0641

United States Senate

WASHINGTON, DC 20510

December 14, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We write to express our concerns regarding the Environmental Protection Agency's (EPA) proposal for more stringent fine particulate matter ($PM_{2.5}$) air quality standards. The proposed $PM_{2.5}$ Rule would impose significant new economic burdens on many communities, hurting workers and their families just as they are struggling to overcome difficult economic times. Moreover, we are concerned, especially in light of the substantial scientific uncertainties involved, that EPA has agreed to finalize the $PM_{2.5}$ Rule in an unreasonably short amount of time.

We note at the outset that EPA data shows this country is breathing the cleanest air in thirty years. Efforts to implement current $PM_{2.5}$ standards are not only ongoing - they continue to show results. Tremendous work at the local, state, and federal levels has cut $PM_{2.5}$ emissions by 1.1 million tons per year since 2000, a 55% reduction. Air quality has shown commensurate improvement, with $PM_{2.5}$ concentrations dropping an average of 27%. States and EPA should be commended for this success under the current standards. However, the Agency's proposal to lower those standards threatens numerous counties with non-attainment designation.

As you are aware, counties designated as non-attainment areas face immediate economic consequences. Business expansion in, or even near, non-attainment areas is subject to restrictive permitting requirements with enhanced EPA oversight. New or upgraded businesses operations must include, regardless of cost, the most effective $PM_{2.5}$ emissions reduction technology and must offset $PM_{2.5}$ emissions by funding costly reductions at existing facilities. If no cost-effective offsets can be found, the new project cannot proceed.

Existing facilities already located in non-attainment areas are also impacted, as they often must install controls more restrictive than required outside a non-attainment area. Furthermore, federal funds for transportation projects in non-attainment areas are cut off unless the state can show such projects do not increase $PM_{2.5}$ emissions. In total, given the additional compliance costs, complex permitting requirements, and transportation infrastructure impacts, businesses are far less likely to invest in a non-attainment area.

The stigma associated with being a non-attainment area has broad consequences. Those living in non-attainment areas see significant hurdles to new, much needed jobs. Municipal budgets are strained by lower tax revenues, reducing the funds available to pay for schools and local infrastructure. Ultimately, a non-attainment designation undermines our states' ability to build their way out of the recession. While EPA does not consider these economic impacts when setting $PM_{2.5}$ standards, the executive branch should not be unmindful of the hardship its regulations cause. In that regard, President Obama has directed agencies under Executive Order 13563 to tailor regulations to impose the least burden on society. However, such burden could be widely imposed by the proposed $PM_{2.5}$ Rule.

According to EPA's own analysis, a significant number of counties with air quality meeting the current annual 15 $\mu g/m^3$ $PM_{2.5}$ standard will fall short of EPA's proposed stringent range of 13 $\mu g/m^3$ to 12 $\mu g/m^3$. That amount will dramatically increase if the Agency selects the even lower 11 $\mu g/m^3$ level for which it has requested comments. EPA's designation process and implementation proposals could spread these effects even further, causing hundreds of counties to face nonattainment designation under EPA's proposed rule.

Moreover, the adverse consequences do not end once an area eventually meets the proposed stringent $PM_{2.5}$ standards. Instead, areas that achieve the standards must petition EPA for redesignation to "attainment" and EPA approval of a new, complex plan that lists specific mandatory continuing measures.

We are aware that stakeholders have noted significant uncertainties in the science underlying the proposed $PM_{2.5}$ Rule. There are concerns that supporting studies rely on conclusions affected by confounding variables or have very weak statistical associations. The Agency should more closely assess these uncertainties before lowering $PM_{2.5}$ standards.

Finally, we are concerned that--to resolve a case brought by environmental groups--EPA agreed to review public comments and produce a final $PM_{2.5}$ Rule in a mere six months, approximately half the amount of time EPA's own sworn statement claimed was necessary for a rule of this complexity. Given the nature of this rulemaking, as well as the significant economic impact and scientific uncertainties, we question whether it is reasonable for EPA to finalize this rule on such an abbreviated timeline.

EPA should not rush at this time toward imposing more regulatory burdens on struggling areas. Instead, we encourage the Agency to work with states and local communities to continue the downward trend in $PM_{2.5}$ emissions through maintaining the current $PM_{2.5}$ standards that states are still in the process of implementing.

Sincerely,

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 15 2013

OFFICE OF
AIR AND RADIATION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of December 14, 2012, to the U.S. Environmental Protection Agency, co-signed by 5 of your colleagues, regarding the review of the National Ambient Air Quality Standards (NAAQS) for particulate matter.

On December 14, 2012, the EPA took important steps to protect the health of Americans from fine particle pollution by strengthening the primary annual standard for fine particles ($PM_{2.5}$) to 12.0 micrograms per cubic meter ($\mu g/m^3$) and retaining the 24-hour fine particle standard of 35 $\mu g/m^3$. The agency also retained the existing primary standard for coarse particles (PM_{10}) and updated the Air Quality Index for $PM_{2.5}$.

The strengthened annual $PM_{2.5}$ standard will provide increased public health protection from a range of adverse impacts, including premature death and harmful effects on the cardiovascular system, and increased hospital admissions and emergency department visits for heart attacks, strokes and asthma attacks. Moreover, emissions reductions from EPA, state, and local rules already on the books will help 99 percent of counties with monitors meet the revised $PM_{2.5}$ standards without additional emissions reductions. These rules include clean diesel rules for vehicles and fuels, and rules to reduce pollution from power plants, locomotives and marine vessels, among others. The EPA estimates that meeting the new fine particle standard will provide health benefits worth an estimated $4 billion to $9.1 billion per year in 2020 – a return of $12 to $171 for every dollar invested in pollution reduction.

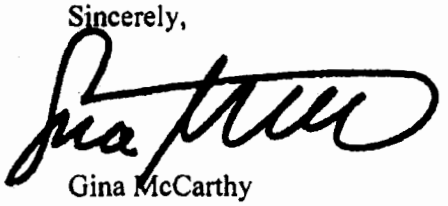
The EPA's final decisions reflect consideration of the strength of the available scientific information and its associated uncertainties as well as the advice of the EPA's Clean Air Scientific Advisory Committee (CASAC) and consideration of extensive public comments. With regard to the timeline for issuing the PM NAAQS final rule, the agency believes that it has adequately considered and responded to all of the substantive public comments. Throughout the PM NAAQS review, which was initiated in 2007 and completed in December 2012, the EPA provided multiple opportunities for CASAC and the public to review and comment on all of the critical documents underlying the final rulemaking (notably multiple drafts of the Integrated Science Assessment, the Risk and Exposure Assessments, and the Policy Assessment). Review of those comments gave the EPA an opportunity to consider commenters' views throughout the process of reviewing the standards. Consequently, the EPA was already informed of many of the key points raised in the comments on the proposed rule in advance of issuing the proposal. The EPA notes further that the time between the proposal and final rule was not significantly different

from that of other NAAQS reviews, including the 2006 PM NAAQS (proposed in January 2006 and signed in September 2006 – eight months versus six months for the review just completed).

We expect to designate areas as "attainment" or "nonattainment" by early 2015. For designated nonattainment areas, the nonattainment new source review (NSR) permitting and conformity provisions of the Clean Air Act (CAA) and implementing regulations are designed to facilitate industrial development and economic growth in nonattainment areas while ensuring that progress is made towards meeting air quality standards. The history of CAA implementation has shown that economic growth and investment do occur in areas that are designated nonattainment for one or more NAAQS and that it is not necessary to sacrifice healthy air to allow for economic growth. In addition, with regard to state implementation plans (SIP) development, the EPA anticipates that local and state governments will consider programs that are best suited for local and regional conditions and that are most cost effective for their areas. To the extent local and state governments have flexibility in choosing the emission controls to implement, they may consider economic concerns in development of their SIPs to address air quality.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,



Gina McCarthy
Assistant Administrator

AL-08-000-6005

United States Senate

WASHINGTON, DC 20510

May 2, 2008

The Honorable Stephen Johnson
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Johnson:

We are writing to convey the frustrations of consumers and animal agriculture producers about the consequences of food-to-fuel mandates that the U.S. Environmental Protection Agency (EPA) is currently implementing and to inquire about the pending rule-making process for the Energy Independence and Security Act of 2007 (EISA).

EISA essentially requires fuel marketers to blend 15 billion gallons of corn ethanol and directs 1 billion gallons of bio-diesel into the nation's fuel supplies by 2015. To meet this requirement, a substantial volume of our corn crop and our vegetable oils will have to be diverted into our fuel supplies, severely impacting food and feed prices. Congress gave the EPA authority to waive all or portions of these mandates, as well as rule-making authority to structure the mandates for the benefit of all Americans. We believe the EPA should begin the process of examining alternatives to ease the severe economic and emerging environmental consequences that are developing in America as a result of the mandate.

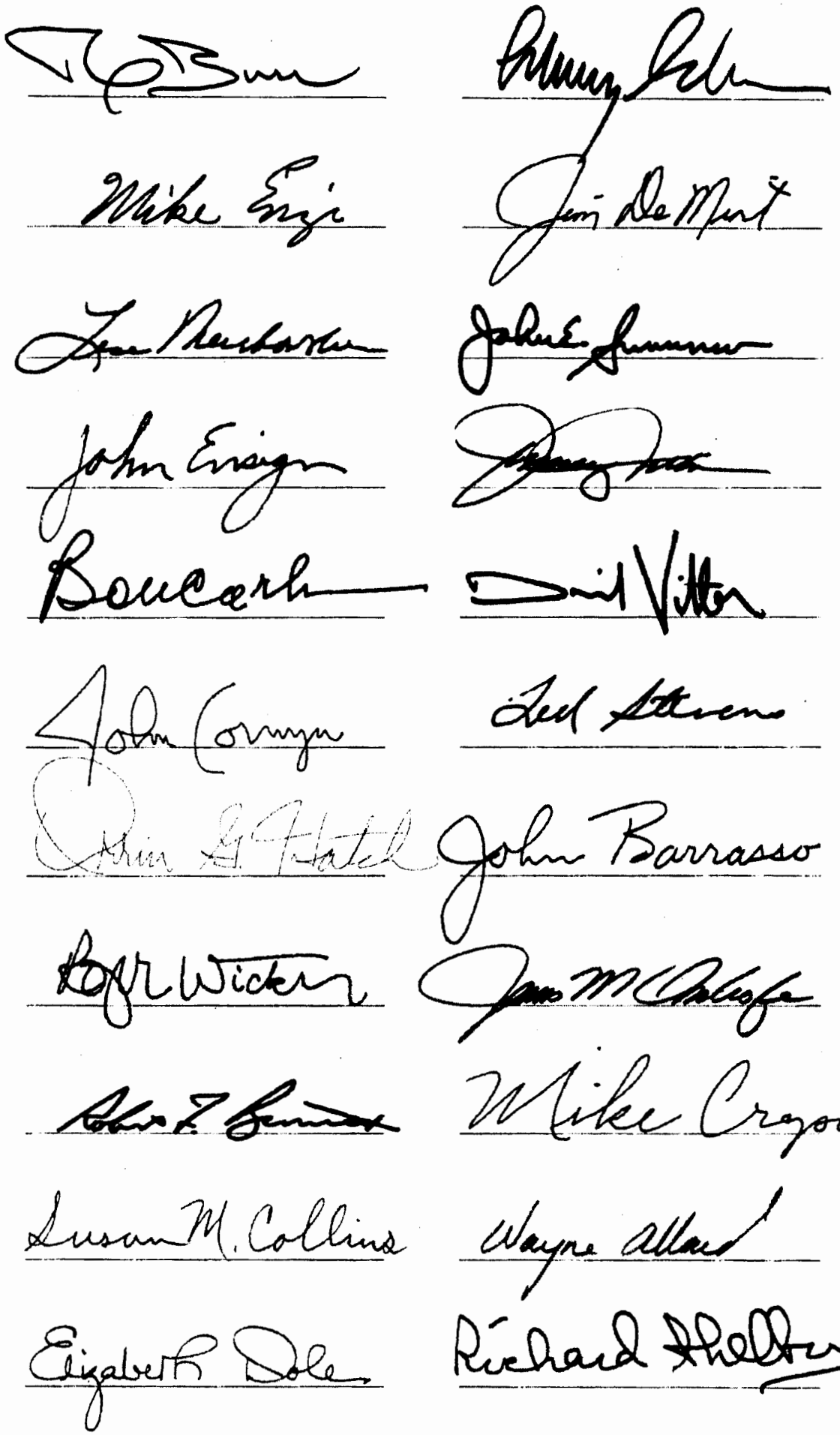
We are very concerned that food-to-fuel mandates and subsidies have contributed to higher domestic and global food prices. According to the USDA, 25 percent of America's corn crop was diverted to produce ethanol in 2007, and 30 to 35 percent of our corn will be diverted in 2008. This problem will only be compounded as we move towards 2015 with ever increasing mandates. Further, farmers could supplant other grains with corn, thereby decreasing supply and increasing prices of numerous agriculture products. Although many factors may contribute to high food costs, food-to-fuel mandates are the only factors that can be reconsidered in light of changing circumstances.

American families are feeling the financial strain of these food-to-fuel mandates in the grocery aisle and are growing concerned about the emerging environmental concerns of growing corn-based ethanol. It is essential for the EPA to respond quickly to the consequences of these mandates. Congress made the mandates in the EISA different from existing mandates to provide flexibility and to encourage innovation in advanced and cellulosic fuels. We believe today's circumstances merit the use of this flexibility.

The Bureau of Labor Statistics reports that food inflation is rising by 4.9 percent and other studies predict that food inflation could increase by 7 to 8 percent in the next few years. We are concerned that inflationary pressure on food will only escalate in the coming months and could be further complicated by severe weather. We urge you to take the foregoing into consideration as part of your current rule-making process and ask that you provide us with a status report at your earliest convenience.

Sincerely,

Kay Bailey Hutchison John McCain



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN - 4 2008

OFFICE OF
AIR AND RADIATION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your May 2, 2008, letter to Stephen L. Johnson, Administrator of the U.S. Environmental Protection Agency (EPA), co-signed by 23 of your colleagues, with whom you concur, expressing concerns about food-to-fuel mandates and their effect upon consumers and animal agriculture producers. You and your colleagues also requested information about EPA's pending rulemaking process regarding renewable fuels as required by the Energy Independence and Security Act of 2007 (EISA), and requested a status report on a request we received to waive a portion of the renewable fuel standard (RFS).

At this time, EPA's Office of Transportation and Air Quality, under the Office of Air and Radiation, is considering new and revised RFS requirements as required by EISA. We are working expeditiously to meet the statutory deadline in EISA for 2009 RFS requirements. Separately, EPA is also considering a waiver request related to the current RFS, which was received from the Governor of Texas on April 25, 2008. A copy of the *Federal Register* notice announcing receipt of the waiver request and soliciting public comment is enclosed. Please be assured that we will take your concerns into consideration and will place your letter in the dockets for both the 2009 RFS rulemaking and the waiver request.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Diann Frantz, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-3668.

Sincerely,

Robert J. Meyers
Principal Deputy Assistant Administrator

Enclosure

AL-06-000-7250

United States Senate

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS
WASHINGTON, DC 20510–6300

CCM
Charles
Stephanie
John
Catherine
Chris
Cynthia
Jim W.

May 3, 2006

The Honorable Stephen L. Johnson
Administrator, U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Mr. Johnson:

In October 2005, the Government Accountability Office (GAO) released a report entitled, "Higher Education: Federal Science, Technology, Engineering, and Mathematics Programs and Related Trends" (GAO-06-114), hereinafter referred to as "the STEM Report." The STEM report identified 207 programs across 13 federal agencies that focus on science, technology, engineering, and math (STEM) education, including programs administered by your agency that were funded in Fiscal Year (FY) 2004.

Since becoming Chairman of the Senate Health, Education, Labor, and Pensions (HELP) Committee and Chairman of the Subcommittee on Education and Early Childhood Development, we have stressed the importance of having an educated and skilled workforce to maintain America's competitiveness in the global economy. While STEM programs and America's global competitiveness have always been important, interest in the topic has become increasingly heightened as evidenced by the number of initiatives now under discussion. For example, the President announced the American Competitiveness Initiative in his State of the Union address and requested billions of dollars for the program in his FY2007 Budget Request. In addition, S. 2198, Protecting America's Competitive Edge through Education and Research Act of 2006, the PACE-Education bill introduced in the Senate in January 2006, presently has 62 co-sponsors. Further, the HELP Committee has held four hearings this year to address the issue of education and America's competitiveness.

We have a national goal to ensure that the United States remains competitive, and effective federal STEM programs play an important role in enabling us to meet this goal. However, before we move forward with any new programs, the HELP Committee wants to learn more about the programs that are already in place. Therefore, we are seeking assessments of the existing programs. In particular, we want to understand the goals and effectiveness of each of the federal STEM education programs listed in the report that your agency administers. To enable us to better understand each of these programs, we are requesting that you provide the following:

1) The name and goal(s) of each program;

2) The amount of money appropriated for each program from FY2001 through FY2006;
3) A brief description of any and all program evaluations conducted since FY2001, including the type and scope of the evaluation, who conducted it, the date of the evaluation, and the results;
4) A copy of each program evaluation since FY2001;
5) If no program evaluation has been conducted for a program on the list, please let us know; and
6) The name and title of the program official, along with the program official's address, telephone number, and e-mail address.

In addition, if any new STEM programs have been funded in your agency since FY2004, please provide the above information for those programs as well. Because these efforts are on a fast track, and the information we are seeking should be readily available, please provide the requested information no later than May 15, 2006.

Thank you for providing this important information. Your cooperation in responding to this request is greatly appreciated. Please direct the requested information to William Green in 632 Senate Hart Office Building, Washington, DC 20510. If you have any questions about the requested information, please contact William Green at (202) 224-7229 or at William_Green@help.senate.gov

Sincerely,

Michael B. Enzi
Chairman, Senate Committee on
Health, Education, Labor, and Pensions

Lamar Alexander
Chairman, Subcommittee on
Education and Early Childhood
Development

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 0 1 2006

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

The Honorable Michael Enzi
United States Senate
Washington, DC 20510

Dear Chairman Enzi:

Thank you for your May 3, 2006 letter to Administrator Stephen Johnson regarding the 2005 STEM Report. I appreciate your interest regarding STEM programs funded by EPA.

Our Agency is actively working with the President's Office of Management and Budget (OMB) to provide you with the information you requested. A final Administration response will then be provided from OMB.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Chris Brown, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-2843.

Sincerely,

Stephanie N. Daigle
Associate Administrator
Office of Congressional and Intergovernmental Relations

AL-14-000-3279

Congress of the United States
Washington, DC 20515

December 20, 2013

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy,

We are writing to express our concerns regarding the Environmental Protection Agency's (EPA) decision to accept the Northern Arapaho and Eastern Shoshone tribes' application for treatment in a similar manner as a state for certain non-regulatory provisions of the Clean Air Act (CAA). As part of this decision your agency has made a determination on the Wind River Indian Reservation boundaries, which now has the City of Riverton falling under the jurisdiction of the tribes. We believe this determination on boundaries is deeply flawed.

While we understand the tribes' position of wanting to expand their borders and receive federal grants, the Congressional Act of 1905 can be no clearer on this issue as it ceded tribal lands (including Riverton) to non-natives. The language of the 1905 Act plainly demonstrates that Congress intended for tribal land to be diminished and since there has never been congressional action to cede that land back there should be no change in boundaries. The EPA's decision has in effect overturned a law that has been governing land and relationships for more than 100 years. Furthermore, the Wyoming Supreme Court backed this view up in *Yellowbear v. State of Wyoming*, ruling that Riverton is not part of the reservation boundaries.

We are also very concerned about the potential ramifications this decision could have for the tribes and the State of Wyoming. In addition to the overregulation that will potentially occur on energy development in the contested area, it also has the potential to be used as precedent to alter criminal and civil jurisdiction in the area. The State of Wyoming plans to appeal this boundary decision in federal court, as its implications are concerning to citizens of Riverton and the State.

Due to these concerns and that fact that this decision should not be made by a regulatory agency we request that your agency rescind its decision and meet with the tribes, state officials and all interested parties on this issue as soon as possible. We believe all affected parties should be engaged on this matter. We thank you for your prompt reply to this urgent matter.

Sincerely,

Michael B. Enzi
United States Senator

John Barrasso, M.D.
United States Senator

Cynthia Lummis
U.S. Representative

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

FEB - 3 2014

Ref: 8A

The Honorable Michael B. Enzi
United States Senate
Washington, DC 20510-5004

Dear Senator Enzi:

Thank you for your December 20, 2013, letter to EPA Administrator Gina McCarthy regarding the Environmental Protection Agency's decision to approve the Northern Arapaho and Eastern Shoshone Tribes' application for "Treatment in a Manner Similar as a State" (TAS) for certain non-regulatory provisions of the Clean Air Act. I appreciate this opportunity to provide the following information in response to your concerns.

Clean Air Act TAS eligibility criteria require that the Clean Air Act functions (in this case, non-regulatory functions) to be administered by the applicant tribe apply to the management and protection of air resources "within the exterior boundaries of the reservation...." Clean Air Act Section 301(d)(2)(B), and the EPA's rules implementing that section at 40 CFR Sections 49.9(e),(f), and (g), require the EPA to determine the reservation boundaries in order to make clear where the applicant tribe may administer those functions.

The EPA diligently followed this law and carefully reviewed and considered the Tribes' application, as well as the comments of the State of Wyoming and others, prior to its decision. The EPA's conclusion regarding the Wind River Reservation boundary is not new and is consistent with the position taken by the U.S. Department of Justice on behalf of the United States in the *Bighorn River System Adjudication* in the 1980s, and with a 2011 written opinion from the Solicitor of the U.S. Department of the Interior.

We understand that there are questions regarding the consequences of the approval of the Tribes' application, particularly with respect to the Wind River Reservation boundary. To the extent that the EPA's approval could have implications for matters beyond environmental programs, we are working closely with other federal agencies, including the Department of Justice and the Department of the Interior, to answer any questions about potential implications and to help avoid any unnecessary disruption or confusion. For example, some have suggested that the EPA's approval might alter voting rights, state citizenship or title to property. Those suggestions are incorrect. The EPA's approval does not affect any of these things.

The EPA has received a Petition for Reconsideration and Stay of Approval of the Eastern Shoshone and Northern Arapaho Tribes' Application for Treatment as a State from the State of

Wyoming, dated January 6, 2014. We will provide the same rigorous and thoughtful review to this petition as we provided throughout the TAS process.

Sincerely,

Shaun L. McGrath
Regional Administrator

AL-13-000-6417

Congress of the United States

Washington, DC 20515

June 14, 2013

Acting Administrator Bob Perciasepe
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, D.C. 20460

Dear Acting Administrator Perciasepe,

We are contacting you about the Environmental Protection Agency's (EPA) proposal to partially disapprove the State of Wyoming's State Implementation Plan (SIP). We respectfully request that you reschedule the public hearing date sixty days later than is currently scheduled and hold an additional public hearing in Wyoming to allow for greater public involvement. We also request that the EPA delay the deadline for accepting public comment 30 days after the public hearing dates. This will allow all interested parties adequate time to respond to the agency's proposed changes.

The EPA's revised proposal partially disapproving of the State of Wyoming's SIP ignores the good work of the Wyoming Department of Environmental Quality (DEQ) and is an unnecessary overreach on an issue that is best regulated at the state level. Further, the public hearing on the revised proposal does not allow adequate time for Wyoming stakeholders to review and analyze the new plan.

The Wyoming DEQ followed all of the factors specified in the Clean Air Act and developed a reasonable approach to addressing regional haze. The plan balanced the need to address regional haze with the need to do so in a cost effective manner. The EPA has proposed a more costly solution with only marginal benefit. This will lead to higher electricity costs and job losses at a time when our economy cannot afford either.

The regulation of regional haze is focused on improving visibility, not public health. It has traditionally been the role of the states, not the federal government, to determine the most effective method of visibility improvement. The EPA's partial disapproval of the Wyoming SIP flies directly in the face of the traditional role of the states. The people who live in the State of Wyoming should be given deference in determining how to approach to the regulation of visibility.

The changes in EPA's new plan could have significant impacts on Wyoming's families, and *requires* a thorough analysis and thoughtful input from all interested stakeholders. Thank you for your immediate attention to our request.

Sincerely,

Michael B. Enzi
United States Senator

John Barrasso, M.D.
United States Senator

Cynthia Lummis
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

JUN 20 2013

Ref: 8P-AR

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510-5004

Dear Senator Enzi:

Thank you for your letter of June 14, 2013, pertaining to the timing of the public hearing and comment period for EPA's proposed action regarding Wyoming's State Implementation Plan to address regional haze. I understand your concern, and my office is currently working with the Wyoming Department of Environmental Quality (DEQ) to accommodate the Wyoming congressional delegation's request and a similar request from Governor Mead for additional public hearings within our consent-decree schedule constraints.

Due to advertising and space reservation commitments, we will still hold the public hearing scheduled for June 24 in Cheyenne. However, in addition, EPA now plans to hold two more public hearings, one each during the weeks of July 15 and July 22, 2013. The dates and locations are being coordinated with the DEQ. Finally, EPA also will extend the comment period 30 days from the last hearing.

We appreciate your continued interest in this proposal. If you have questions concerning our public comment process, please contact me; or your staff may wish to contact Sandy Fells, our Regional Congressional Liaison, at 303-312-6604 or fells.sandy@epa.gov.

Sincerely,

Shaun L. McGrath
Regional Administrator

AL-14-000-0896

United States Senate

WASHINGTON, DC 20510

October 31, 2013

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy,

We are contacting you regarding our concerns about the EPA's announced listening tour on developing new carbon limit regulations for existing coal fired power plants.

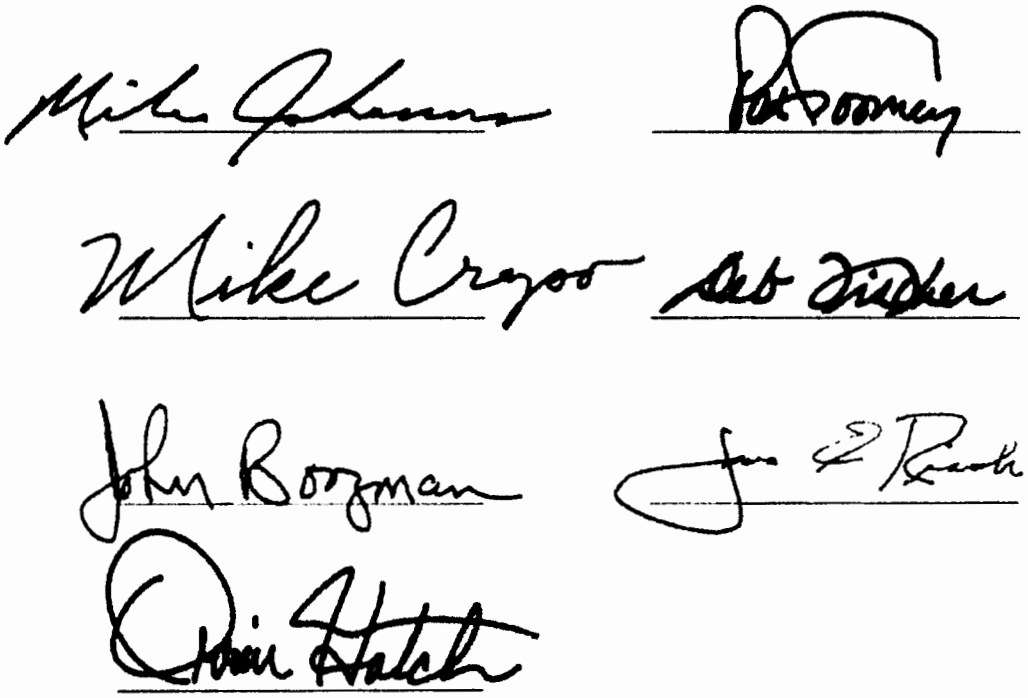
The EPA recently began a listening tour which will visit eleven cities across the country to hear the public's views on placing carbon limits on existing coal fired power plants. All but one of these cities is a major metropolitan area (New York, Boston, Washington D.C., Philadelphia, Atlanta, Chicago, Dallas, Denver, San Francisco, and Seattle). The exception is Lenexa in Kansas, which is actually located in the Kansas City, Kansas metropolitan area.

Most of these areas are not where coal is either utilized or produced in any significant way. Your listening tour will miss seventeen of the top twenty coal burning states. In addition, your tour will miss sixteen of the top twenty coal producing states, including the top three (Wyoming, West Virginia and Kentucky).

As your regulations will likely have a significant negative impact on the use and development of coal, and the livelihoods and energy bills for folks across rural America, it only makes sense that you should actually go to the areas that will be most impacted by your policies. Unfortunately, it appears your listening tour will merely rubber stamp whatever pre-conceived policy this Administration was planning on pursuing in the first place.

We respectfully request that you consider hearing the opinions of the people most impacted by your policies. Americans most impacted by your policies deserve to be heard.

Sincerely,



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 15 2014

OFFICE OF
AIR AND RADIATION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of October 31, 2013, to U.S. Environmental Protection Agency Administrator Gina McCarthy, co-signed by ten of your colleagues, requesting that the EPA hold listening sessions in your states on reducing carbon pollution from existing power plants. The Administrator has asked that I respond on her behalf.

The EPA is working diligently to address carbon pollution from power plants. In June 2013, President Obama called on agencies across the federal government, including the EPA, to take action to cut carbon pollution to protect our country from the impacts of climate change, and to lead the world in this effort. His call included a directive for the EPA "to work expeditiously to complete carbon pollution standards for both new and existing power plants." Currently, there are no federal standards in place to reduce carbon pollution from the country's largest source. The President also directed the EPA to work with states, as they will play a central role in establishing and implementing standards for existing power plants, and, at the same time, with leaders in the power sector, labor leaders, non-governmental organizations, other experts, tribal officials, other stakeholders, and members of the public, on issues informing the design of carbon pollution standards for power plants.

As we consider guidelines for existing power plants, the EPA is engaged in vigorous and unprecedented outreach with the public, key stakeholders, and the states. The eleven listening sessions the EPA held throughout the country were attended by thousands of people, representing many states and a broad range of stakeholders, including many from the coal industry. In addition, the EPA leadership and senior staff, in Washington, D.C. and in every one of our ten regional offices, have been meeting with industry leaders and CEOs from the coal, oil, and natural gas sectors; state, tribal, and local government officials from every region of the country, including your state; and environmental and public health groups, faith groups, labor groups, and others. Our meetings with state governments have encompassed leadership and staff from state environment departments, state energy departments and state public utility commissions. We are doing this because we want—and need—all available information about what is important to each state and stakeholder. We know that guidelines require flexibility and sensitivity to state and regional differences.

To this end, we welcome feedback and ideas from you as well as your constituents about how the EPA should develop and implement carbon pollution guidelines for existing power plants under the Clean Air Act. Interested stakeholders can send their thoughts through email at carbonpollutioninput@epa.gov. Stakeholders can also learn more about what we are doing at www.epa.gov/carbonpollutionstandard. I welcome you to provide a link to our website from yours, and to share any other information about the EPA's public engagement activities with the citizens of your state.

Please note that the public meetings we've been holding to date and other outreach efforts are happening well before we propose guidelines. When we issue the draft guidelines in June 2014, a more formal public comment period will follow, as with all rules, and more opportunities for public hearings and stakeholder outreach and engagement. I look forward to hearing what you think about the draft guidelines at that time, too.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2998 or bailey.kevin@epa.gov.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-10-001-3141

United States Senate

WASHINGTON, DC 20510

July 29, 2010

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

With the recent publication of the Environmental Protection Agency's (EPA) proposal for regulating coal combustion residues (CCRs), we write to express our concerns about the serious economic and environmental consequences resulting from the regulation of CCRs as a special listed waste under subtitle C of the Resource Conservation and Recovery Act (RCRA).

Despite decades of work by the EPA confirming that the regulation of CCRs under RCRA's subtitle C hazardous waste program is not warranted, the proposed subtitle C option would reverse these prior conclusions and regulate CCRs under RCRA's hazardous waste controls, placing unworkable facility and operational requirements on our state utilities. Indeed, the subtitle C option would regulate CCRs more stringently than any *other* hazardous waste by applying the hazardous waste rules to certain inactive and previously closed CCR units. EPA has never before interpreted RCRA in this manner in its 30 years of administering the federal hazardous waste rules. The subtitle C approach simply is not supportable given its myriad adverse consequences and the availability of an alternative, less burdensome regulatory option under RCRA's non-hazardous waste rules that, by EPA's own admission, will provide an equal degree of protection to public health and the environment.

Moreover, we are concerned that the subtitle C option will result in the loss of important high-paying jobs in the CCR beneficial reuse and related "green" jobs markets, at a time when unemployment is high and the pace of economic recovery is uncertain. Federal policies should encourage greater recycling of CCRs by facilities that use coal. Despite assurances by the Administration that regulation of CCRs under subtitle C would have no negative impact on the beneficial reuse market, the mere discussion of regulating CCRs under RCRA's hazardous waste program has already produced a downturn in the market for these materials. We believe that those who argue that beneficial use of CCRs will increase under the subtitle C option do not appreciate the realities of the potential legal liabilities under today's tort system. The reality is that the market place is already reacting negatively to these concerns, and we are losing important green jobs, along with the greenhouse gas emission reduction benefits that flow from the use of CCRs in numerous products, particularly in transportation infrastructure projects.

We are also deeply concerned that the subtitle C approach will, in one fell swoop, increase by approximately *50-fold* the volume of hazardous waste disposed of annually in land disposal units (from the current volume of two million tons per year to over 100 million tons of CCRs disposed of annually). This will create an immediate and critical shortfall in hazardous waste disposal capacity, adversely impacting the pace of cleanups under Superfund and other ongoing federal

and state remedial and Brownfield programs. In fact, state environmental protection agencies from around the Nation have repeatedly cautioned EPA that the subtitle C approach for CCRs will overwhelm existing hazardous waste disposal capacity and further strain already stretched budgets and staff resources. It makes no sense to impose these adverse consequences on the existing hazardous waste program and state resources for a material that EPA has repeatedly found does not warrant regulation under RCRA subtitle C.

Given the ash spill disaster at the Tennessee Valley Authority's Kingston facility in 2008, we understand the EPA raising concerns about the handing and storage of CCRs. All operators should take appropriate precautions and those who fail to do so should be held accountable. However, in light of the nearly unanimous opposition from the states and the opposition and concern expressed by other federal agencies that participated in the interagency review process of the CCR proposal, we urge EPA not to pursue the subtitle C option. Instead, there is little question that EPA can develop a federal program for CCR disposal practices under RCRA's subtitle D non-hazardous waste program that ensures protection of human health and the environment without the attendant adverse consequences of the Subtitle C option on jobs, CCR beneficial uses and state budgets and resources. Again, we strongly recommend the EPA pursue a subtitle D approach for CCRs.

Thank you for your consideration of this important matter. We look forward to your response and working with you to address this issue in a manner that is both environmentally and economically sound.

Sincerely,

Sam Brownback
United States Senate

Kent Conrad
United States Senate

Mary L. Landrieu
United States Senate

Johnny Isakson
United States Senate

Christopher S. Bond
United States Senate

Pat Roberts
United States Senate

David Vitter
United States Senate

Thad Cochran
United States Senate

Michael B. Enzi
United States Senate

Lisa Murkowski
United States Senate

Blanche L. Lincoln
United States Senate

George V. Voinovich
United States Senate

Byron L. Dorgan
United States Senate

Ben Nelson
United States Senate

James M. Inhofe
United States Senate

Jim Bunning
United States Senate

John Barrasso
United States Senate

Saxby Chambliss
United States Senate

Jeff Sessions
United States Senate

Lamar Alexander
United States Senate

Evan Bayh
United States Senate

Mark L. Pryor
United States Senate

Claire McCaskill
United States Senate

John Cornyn
United States Senate

Roger F. Wicker
United States Senate

Max Baucus
United States Senate

Lindsey Graham
United States Senate

Mark R. Warner
United States Senate

Herb Kohl
United States Senate

Richard Burr
United States Senate

Jim Webb
United States Senate

Bob Corker
United States Senate

Orrin G. Hatch
United States Senate

Mike Johanns
United States Senate

Robert F. Bennett
United States Senate

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP - 2 2010

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of July 29, 2010 to U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson, expressing your interest in EPA's proposed rulemaking governing the management of coal combustion residuals (CCRs) and the potential adverse impacts associated with a possible re-classification of CCRs as a hazardous waste. I appreciate your interest in these important issues.

In the proposed rule, EPA seeks public comment on two approaches available under the Resource Conservation and Recovery Act (RCRA). One option is drawn from remedies available under Subtitle C, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The other option includes remedies under Subtitle D, which gives EPA authority to set performance standards for waste management facilities which are narrower in scope and would be enforced primarily by those states who adopt their own coal ash management programs and by private citizen suits.

EPA is not proposing to regulate the beneficial use of CCRs. EPA continues to strongly support the safe and protective beneficial use of CCRs. However, EPA has identified concerns with some uses of CCRs in an unencapsulated form, in the event proper practices are not employed. The Agency is soliciting comment and information on these types of uses.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

AL-12-000-1590

Congress of the United States
Washington, DC 20515

January 27, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson,

We write to you in regards to your letter to Governor Matt Mead dated January 19, 2012. Specifically, we note your statement that "the causal link to fracturing has not been demonstrated conclusively" in the Environmental Protection Agency's draft report on the ground water investigation in Pavillion, Wyoming. As representatives of the people of Wyoming, we believe that Wyoming residents deserve to have definitive answers about the source of the ground water problems in Pavillion. For this reason, we request that you partner with the State of Wyoming to conduct additional testing and analysis at Pavillion *before* any peer review takes place.

In your response to Governor Mead, you state that "the EPA welcomes the State's willingness to support additional scientific investigation at Pavillion." You go on to explain that this "could include additional sampling of the EPA monitoring wells and further study of the potential fate and transport of contaminants in the Wind River formation." We are encouraged that the EPA is "in discussions with...USGS...about partnering on additional sampling of the monitoring wells." However, we ask that the EPA go beyond mere discussions with USGS and consideration of additional sampling, testing, and analysis. Among other things, the EPA should immediately grant USGS access to its monitoring wells. USGS has agreed to provide the State with analysis on additional samples in March if it is granted access to the EPA's two deep monitoring wells by February 1st.

Our chief priority is that residents of rural Pavillion have clean water in their homes and community and that they have conclusive answers about the source of the area's ground water problems. We believe the best way to obtain conclusive answers is through additional testing and analysis as requested by Governor Mead. It is our understanding that the Governor has budgeted additional monies for this purpose. We appreciate your commitment to make "every effort to work cooperatively with the State of Wyoming." We ask you to follow through on this commitment by working with the State to conduct additional testing and analysis *prior to* any peer review.

Sincerely,

Mike Enzi
Michael B. Enzi
U.S. Senator

John Barrasso
John Barrasso, M.D.
U.S. Senator

Cynthia M. Lummis
Cynthia M. Lummis
U.S. Representative

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

March 13, 2012

Ref: 8EPR-IO

The Honorable Michael Enzi
United States Senate
Washington, DC 20510-5004

Dear Senator Enzi:

Thank you for your letter of January 27, 2012, to Administrator Jackson regarding EPA Region 8's ground-water investigation in Pavillion. The Administrator has asked me to respond to the questions you raised in your letter regarding the State of Wyoming's interest in additional investigation activities there.

First, I want to emphasize that the Environmental Protection Agency (EPA) agrees it will be useful to collect additional samples from our deep monitoring wells in the Pavillion field, both to confirm EPA's results from earlier sampling and to provide some insight about how concentrations of contaminants in the drinking water aquifer may be persisting or changing over time. Accordingly, EPA is partnering with the United States Geological Survey (USGS) and the Wyoming Department of Environmental Quality (WY DEQ), in collaboration with the Tribes, to complete this additional sampling as soon as possible.

The USGS, in cooperation with WY DEQ and in partnership with the EPA and Tribal Authorities, has formed a project technical team comprised of technical experts from each of the interested entities. The technical team is meeting on March 15, 2012, to work out the details of the sampling plan, including the schedule. Sampling is currently targeted to occur in April 2012.

In order to ensure that the results of this next phase of testing are available for the Pavillion Draft Report peer review process, to which the Agency has committed, EPA has agreed to extend that process. This extension will enable the USGS report on sampling, as well as EPA's data from the collection of split samples, to be available for the peer review panel's consideration. I am pleased to report that the State and the Tribes support that decision. I also want to reiterate that EPA remains committed to a fully transparent and rigorous peer review process of the Draft Report on its ground-water investigation at Pavillion. Even though the Draft Report has been classified as Influential Scientific Information, EPA is following the peer review process specified for a Highly Influential Scientific Assessment in reviewing the Draft Report. In addition, EPA is extending the public comment period on the Draft Report through October 2012 to provide additional time for the public to review and comment on the new sampling data.

Finally, I want to reaffirm that I share your goal of ensuring that the people of Pavillion have a safe and affordable supply of water and that we provide them with information about contamination that is supported by the best science we can produce. Toward that end, we are also committed to working collaboratively with the State, the Tribes, and all interested stakeholders. The joint statement issued last week by the Administrator, the State, and the Tribes reaffirms that commitment.

Respectfully,

James B. Martin
Regional Administrator

AL-11-000-9233

THE WHITE HOUSE OFFICE
REFERRAL

May 31, 2011

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: APPROPRIATE ACTION

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1056373
MEDIA:	EMAIL
DOCUMENT DATE:	May 26, 2011
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE KENT CONRAD UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	WRITES TO ASK THE ADMINISTRATION TO RAPIDLY FINALIZE A RULE REGULATING COAL COMBUSTION RESIDUES (CCRs) UNDER SUBTITLE D THE NON-HAZARDOUS SOLID WASTE PROGRAM OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

COMMENTS: _____

_____

_____

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 65, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500
FAX A COPY OF REPONSE TO: (202) 456-5881

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: May 31, 2011

CASE ID: 1056373

NAME OF CORRESPONDENT: THE HONORABLE KENT CONRAD

SUBJECT: WRITES TO ASK THE ADMINISTRATION TO RAPIDLY FINALIZE A RULE REGULATING COAL COMBUSTION RESIDUES (CCRs) UNDER SUBTITLE D THE NON-HAZARDOUS SOLID WASTE PROGRAM OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

		ACTION		DISPOSITION		
ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	CODE	DATE	TYPE RESPONSE	CODE	DATE COMPLETED
LEGISLATIVE AFFAIRS	ROB NABORS	ORG	05/31/2011			
ACTION COMMENTS:						
ENVIRONMENTAL PROTECTION AGENCY		A	05/31/2011			
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						

COMMENTS: 43 ADDL SIGNEES

MEDIA TYPE: EMAIL

USER CODE:

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 65, EEOB.

1056373

United States Senate

WASHINGTON, DC 20510

May 26, 2011

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama:

In November, the public comment period concluded on the Environmental Protection Agency's (EPA's) proposed rulemaking for the regulation of coal combustion residues (CCRs). We write to ask the Administration to rapidly finalize a rule regulating CCRs under subtitle D, the non-hazardous solid waste program of the Resource Conservation and Recovery Act (RCRA).

The release of CCRs from the Tennessee Valley Authority impoundment in December 2008 properly caused the EPA to consider whether CCR impoundments and landfills should meet more stringent standards. All operators should meet appropriate standards, and those who fail to do so should be held responsible. We believe regulation of CCRs under subtitle D will ensure proper design and operations standards in all states where CCRs are disposed.

A swift finalization of regulations under subtitle D offers the best solution for the environment and for the economy. The environmental advantages of the beneficial use of CCRs in products such as concrete and road base are well-established. For example, a study released by the University of Wisconsin and the Electric Power Research Institute in November 2010 found that the beneficial use of CCRs reduced annual greenhouse gas emissions by an equivalent of 11 million tons of carbon dioxide, annual energy consumption by 162 trillion British thermal units, and annual water usage by 32 billion gallons. These numbers equate to removing 2 million cars from our roads, saving the energy consumed by 1.7 million American homes, and conserving 31 percent of the domestic water used in California.

We are concerned that finalizing a rule regulating CCRs under subtitle C of RCRA rule would permanently damage the beneficial use market. Since the EPA first signaled its possible intention to regulate CCRs under subtitle C, financial institutions have withheld financing for projects using CCRs, and some end-users have balked at using CCRs in their products until the outcome of the EPA's proposed rulemaking is known. Already, beneficial use of CCRs has decreased, and landfill disposal has increased. This result is counterproductive but likely to continue as long as the present regulatory uncertainty persists.

State environmental protection agencies have cautioned the EPA that regulating CCRs under subtitle C will overwhelm existing hazardous waste disposal capacity and strain budget and staff resources. Moreover, the bureaucratic and litigation hurdles involved in a subtitle C rule could lead to long delays before storage sites are upgraded or closed, resulting in slower environmental protection.

In two prior reports to Congress, the EPA concluded that disposed CCRs did not warrant regulation under subtitle C of RCRA. Despite this prior conclusion, the EPA's proposed subtitle C option would regulate CCRs more stringently than any other hazardous waste by applying the subtitle C rules to certain inactive and previously closed CCR units. The EPA has never before interpreted RCRA in this manner in over 30 years of administering the federal hazardous waste rules. The subtitle C approach is not supportable given its multiple adverse consequences and the availability of an alternative, less burdensome regulatory option under RCRA's non-hazardous waste rules that, by the EPA's own admission, will provide an equal degree of protection to public health and the environment.

In conclusion, we request that the Administration finalize a subtitle D regulation as soon as possible. The states and the producers of CCRs have raised concerns that should be corrected in a final subtitle D rule, including ensuring that any subtitle D regulations are integrated with and administered by state programs. Subtitle D regulation will improve the standards for CCR disposal, ensure a viable market for the beneficial use of CCRs, and achieve near-term meaningful environmental protection for disposed CCRs.

Thank you very much for your consideration of this important matter. We look forward to your response and to working with you to address this issue in a manner that is both environmentally and economically sound.

Sincerely,

Kent Conrad
United States Senate

Michael B. Enzi
United States Senate

Joe Manchin III
United States Senate

Johnny Isakson
United States Senate

Jerry Moran
United States Senate

John Boozman
United States Senate

Daniel Coats
United States Senate

Roy Blunt
United States Senate

John Hoeven
United States Senate

Roger F. Wicker
United States Senate

Thad Cochran
United States Senate

Claire McCaskill
United States Senate

Jon Tester
United States Senate

Lisa Murkowski
United States Senate

Orrin G. Hatch
United States Senate

Ben Nelson
United States Senate

John Barrasso
United States Senate

Pat Roberts
United States Senate

John Thune
United States Senate

David Vitter
United States Senate

Mary L. Landrieu
United States Senate

Mark R. Warner
United States Senate

Bob Corker
United States Senate

Mike Lee
United States Senate

Mark L. Pryor
United States Senate

Max Baucus
United States Senate

Richard Burr
United States Senate

Richard G. Lugar
United States Senate

Lindsey Graham
United States Senate

Rob Portman
United States Senate

Jim DeMint
United States Senate

Richard C. Shelby
United States Senate

Patrick J. Toomey
United States Senate

John Cornyn
United States Senate

Dean Heller
United States Senate

Lamar Alexander
United States Senate

Mark Begich
United States Senate

Chuck Grassley
United States Senate

Saxby Chambliss
United States Senate

Mark Kirk
United States Senate

Herb Kohl
United States Senate

James E. Risch
United States Senate

John D. Rockefeller IV
United States Senate

Ron Johnson
United States Senate

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 18 2011

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of May 26, 2011, to President Barack Obama in which you asked that the U.S. Environmental Protection Agency (EPA) finalize a rule regulating coal combustion residuals (CCR) under Subtitle D of the Resource Conservation and Recovery Act (RCRA) as soon as possible. I appreciate your comments regarding the CCR rule that the EPA proposed on June 21, 2010.

As you note in your letter, the regulation of CCR intended for disposal is appropriate, and the agency agrees with you that operators should meet appropriate standards, or be held accountable. The agency also shares your belief that the beneficial use of CCR, if conducted in a safe and environmentally protective manner, has many environmental advantages and should be encouraged.

Under the proposal, the EPA would regulate the disposal of CCR for the first time. As you know, the proposal sought public comment on two different approaches under RCRA. One option would treat such wastes as a "special waste" under Subtitle C of the statute, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The second option, as you indicated in your letter, would be to establish standards for waste management and disposal under the authority of Subtitle D of RCRA. The agency is currently reviewing and evaluating the approximately 450,000 public comments received on the proposal, many of which addressed the specific issues raised in your letter, before deciding on the approach to take in the final rule based on the best available science. The agency will issue a final regulation as expeditiously as possible.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

OFFICES:
Gillette 307-682-6268
Cheyenne 307-772-2477
Casper 307-261-6572
Cody 307-527-9444
Jackson 307-739-9507
D.C. 202-224-3424
website enzi.senate.gov

United States Senate

WASHINGTON, DC 20510-5004

MICHAEL ENZI
WYOMING

COMMITTEES
Health, Education, Labor and Pensions
Ranking Member
Finance
Small Business
Budget

September 13, 2012

David McIntosh Fax: (202) 501-1519
Assocate Administrator for Congressional
and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

Dear David:

The Carbon County Farm Bureau has provided me with the enclosed copy of their letter to Lisa Jackson, Administrator, Environmental Protection Agency regarding the Clean Water Act Guidance Document.

I would like to ask that the situation outlined be carefully reviewed and that I be advised of your findings. Whatever information and assistance you can provide will be greatly appreciated. Please respond to me at P.O. Box 33201, Casper, Wyoming 82602-5012; via fax (307) 261-6574; or by email to Sandy_Tinsley@enzi.senate.gov. I look forward to your reply.

Sincerely,

Mike Enzi

Michael B. Enzi
United States Senator

MBE:st

Enclosure

CC: Tom Vilsack Fax: (202) 720-3365
Secretary of Agriculture
United Staes Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250

August 26, 2012

Lisa P. Jackson, Administrator, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460

Tom Vilsack, Secretary of Agriculture, United States Department of Agriculture, 1400 Independence Ave., S.W., Washington, DC 20250

Dear Administrator Jackson and Secretary Vilsack:

Please withdraw the Clean Water Act Guidance Document by EPA and the Army Corps of Engineers.

If the Guidance Document were to be finalized, many areas of our ranches and areas throughout the state would become regulated by the EPA under the Clean Water Act. Congress did not intend the Clean Water Act to regulate ditches and farm ponds, possible groundwater, and even the rain once it falls to the ground.

The Clean Water Act has been successful in the previous 40 years. Now, the Guidance Document seeks new and expanded authority beyond the scope of the law. This must be withdrawn.

Thank you for your consideration.

Signed by members of the Carbon County Farm Bureau; Carbon County, Wyoming.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 18 2012

OFFICE OF WATER

The Honorable Michael B. Enzi
United States Senator
P.O. Box 33201
Casper, Wyoming 82602-5012

Dear Senator Enzi:

Thank you for your letter of September 13, 2012, to the U.S. Environmental Protection Agency (EPA) Associate Administrator for Congressional and Intergovernmental Relations regarding a letter from the Carbon County Farm Bureau to the EPA Administrator Lisa P. Jackson. The Carbon County Farm Bureau letter requests that the EPA withdraw the draft Clean Water Act guidance document published by the EPA and the U.S. Army Corps of Engineers (Corps), and expresses concerns that the draft guidance would lead to increased regulatory control of ranches and farms. As the senior policy manager of the EPA's national water program, I appreciate the opportunity to respond to your letter.

In May 2011, the EPA and the Corps announced the availability for public comment of draft guidance that clarifies the scope of the CWA protections in light of the Supreme Court's decisions. This guidance, once finalized, would replace the 2008 guidance that the EPA and the Corps currently use. The agencies developed the draft guidance because we and many stakeholders believe strongly that the current guidance issued in 2008 is confusing and is causing avoidable delays and inconsistency for those who need CWA permits.

The draft guidance would reaffirm the existing regulatory exemptions for agriculture, including those for prior converted cropland. It would not affect any of the exemptions from CWA section 404 permitting requirements provided by CWA section 404(f), including those for ongoing agriculture, forestry, and ranching practices. The draft guidance also would not change the statutory and regulatory exemptions from National Pollutant Discharge Elimination System (NPDES) permitting requirements for agricultural stormwater discharges and return flows from irrigated agriculture. It would clarify that groundwater is not protected as a "water of the United States" under the CWA.

We received over 230,000 comments, the vast majority of which were supportive of moving forward with clarifying the scope of protected waters. We have revised the guidance in response to comments received, and submitted a draft final guidance to the Office of Management and Budget for interagency review. This document is still in interagency review.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at 202-564-4836.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

AL-11-000-5905

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

April 15, 2011

Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our concerns about additional regulatory actions that the Environmental Protection Agency is planning to take regarding the "Lead: Renovation, Repair and Painting Rule" (LRRP).

Following the finalization of EPA's LRRP Rule, several lawsuits were filed and on August 24, 2009, EPA entered into a settlement agreement with some of the petitioners. In the settlement agreement, EPA agreed to commence rulemaking to address renovations in public and commercial buildings to the extent those renovations create lead-based paint hazards. As a result of this agreement, by December 15, 2011, EPA must issue a proposal to regulate renovations on the exteriors of commercial buildings and public buildings built before 1978. EPA must take final action on that proposal and propose regulations for the interior of buildings by July 15, 2013.

The Residential Lead-Based Paint Hazard Reduction Act of 1992 gave EPA authority in the Toxic Substances Control Act (TSCA) to "apply the regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards." We are concerned that EPA is assuming that the majority of commercial buildings create a lead hazard without having the data to support it. In a 2010 report, EPA recognized the "scarcity of data related to dust exposures in public and commercial buildings and other non-residential settings," and that an extensive literature search "revealed relatively little information concerning typical levels of floor and window sill dust lead in public and commercial buildings." Yet EPA is moving forward at a very rapid pace to issue proposed regulations.

Additionally, under section 402(c)(2), EPA has an obligation to study "the extent to which persons engaged in various types of renovation and remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard on a regular or

occasional basis." Section 402(c)(3) says that EPA "shall utilize the results of the study under paragraph (2)" in determining what to regulate.

Relying on the dust studies done in residential settings and schools is not sufficient for promulgating rules on all existing commercial buildings. If EPA does not currently have sufficient data on the lead hazards in commercial buildings, it must study those lead hazards and gather that data prior to issuing regulations.

We are also concerned that the EPA seems to believe it can easily apply what it has done under residential LRRP to commercial buildings. Whereas a home owner or child care facility may only renovate a bathroom or kitchen once every 10 years, some commercial buildings are renovated continuously. Tenants move in and out of office buildings, requiring outfitting to meet their individual needs, mall shops move and change frequently, and many commercial and public buildings undergo upgrades to make them more energy efficient. Prior to issuing regulations, EPA must have a robust understanding of what renovation activities in public and commercial buildings entail, the frequency of these activities, and the relationship of these activities to ambient lead in the building. Without understanding what activities are likely to affect ambient lead levels in the building, EPA cannot write regulations and guidance that will actually create meaningful improvements to public health.

At a time when the nation's building industry has been in a severe recession and faces an unemployment rate of nearly 21 percent, we need to make sure that the rules EPA is promulgating will not present additional barriers to economic recovery. We appreciate your attention to this letter.

Sincerely,

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 1 1 2011

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of April 15, 2011, to the U.S. Environmental Protection Agency (EPA) expressing your concerns about EPA's plans to regulate the renovation of public and commercial buildings.

The Renovation, Repair, and Painting (RRP) rule that regulates the renovation of target housing (homes built before 1978) was signed on April 22, 2008. Shortly after this final rule was promulgated, several lawsuits were filed challenging the rule. These lawsuits (brought by industry representatives as well as environmental and children's health advocacy groups) were consolidated in the Circuit Court of Appeals for the District of Columbia Circuit. On August 26, 2009, EPA signed a settlement agreement with the environmental and children's health advocacy groups and shortly thereafter the industry representatives voluntarily dismissed their challenge to the rule.

The settlement agreement required EPA to fulfill the obligations Congress placed on the Agency in the Residential Lead-Based Paint Hazard Reduction Act of 1992. The Act required EPA to promulgate regulations addressing renovations activities in "public buildings constructed before 1978, and commercial buildings" that create lead-based paint hazards. With respect to renovations on the exterior of such buildings, the settlement agreement, as amended, provides that EPA must issue a proposal by June 15, 2012, and take final action on the proposal by February 15, 2014. In addition, EPA also agreed to determine whether hazards are created by renovations on the interiors of such buildings. For those interior renovations that create lead-based paint hazards, EPA agreed to issue a proposal by July 1, 2013, and take final action on the proposal no later than eighteen months after that.

Accordingly, EPA is currently developing a proposal to address exterior renovation jobs on public buildings constructed before 1978 and commercial buildings that, by virtue of their close proximity to residences and child-occupied facilities (*i.e.*, buildings frequented by children under the age of six), create lead-based paint hazards.

EPA agrees that it is necessary to have a robust understanding of new action in public and commercial buildings. Consistent with Section 402(c)(2) of TSCA, EPA has conducted extensive studies on renovation activities (http://www.epa.gov/lead/pubs/leadtpbf.htm#Renovation) during the development of the RRP rule. For example, EPA has conducted a study to evaluate lead dust generated in actual renovation situations, including hazards created by the use of various renovation and paint removal practices on different building components, known as "EPA's Dust Study" (USEPA. Characterization of

Dust Lead Levels After Renovation, Repair, And Painting Activities. November 13, 2007). EPA is also evaluating other data on exterior renovations. These studies provide a comprehensive picture of lead dust generation by renovation activities when lead-based paint is disturbed—regardless of the building type. EPA will use these studies, along with any other suitable studies identified as the result of a search of scientific literature to identify lead paint hazards generated by renovation activities on public and commercial buildings. EPA will provide the analysis of the hazards created during the renovation of public and commercial buildings in the proposed rule and will provide opportunity for public comment at that time. EPA is currently gathering data on the types and frequency of renovation activities commonly undertaken in public and commercial buildings.

EPA is also organizing a Small Business Advocacy Review (SBAR) panel to provide input that will be used by EPA during the development of the proposed rule. SBAR panels are comprised of representatives from the agency conducting the rulemaking (EPA in this case), the Small Business Administration, and the Office of Management and Budget. The Panel will consult with small entities on cost and economic implications of the future regulations addressing exterior renovation jobs on public buildings constructed before 1978 and commercial buildings. The SBAR panel will also seek information from participants on the types of activities typically undertaken during the renovation of public and commercial buildings and alternative regulatory requirements. As part of the rulemaking process, EPA also assesses the costs and benefits of any regulation it is required by Congress to implement. EPA is still gathering information to inform the development of an assessment of costs and benefits of this future proposed rule. Economic analyses for rulemaking efforts are performed for several statutes and executive orders and will be completed during the development of the proposed and final rule.

Again, thank you for your letter and your support for the goal of preventing dangerous lead exposures. If you have additional questions or concerns, please contact me or your staff may contact Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

Stephen A. Owens
Assistant Administrator

AL-11-000-5903

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

April 15, 2011

Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express concerns about additional regulatory actions that the Environmental Protection Agency is planning to take regarding the "Lead: Renovation, Repair and Painting Rule" (LRRP).

We first contacted you with our concerns about the implementation of this rule in May 2009. Though implementation was difficult, the rule is now fully in place and, thanks to the June 2010 enforcement guidance, EPA has trained significantly more contractors than it initially estimated it would need for compliance.

However, we now understand that, as a result of a legal settlement, EPA has already proposed new amendments to the LRRP rule. These amendments would require renovators to conduct "clearance testing" following a project's completion to prove the presence or absence of lead in homes. We are concerned about this amendment for a number of reasons.

First, poor planning for the initial LRRP resulted in the rule taking effect without having enough opportunities for renovators to become certified, massive confusion among homeowners about the necessity of paying extra for the LRRP compliance measures, and an inadequate amount of lead test kits. Additionally, EPA significantly underestimated the cost of compliance for small businesses and individuals.

Dramatic changes to the program, such as the requirement for clearance testing, will likely impose significant confusion and complication for renovators and remodelers who have already completed their LRRP training and will also result in additional costs for homeowners and renovators to pay for the clearance testing. We have heard from a number of our constituents that the higher costs from current LRRP renovators have pushed homeowners to either hire uncertified individuals or to perform renovation work themselves. This is absolutely counter to the intent of the rule, which is to protect people from the potential dangers of lead dust.

Second, this new requirement is a clear violation of congressional intent under the Toxic Substances Control Act (TSCA). Congress made clear that renovation activity and abatement activity are separate. Renovation work is governed by section 402 of TSCA and abatement work is under section 405. Additionally, EPA's own definitions make it clear that abatement and remodeling are different activities. The regulatory definition of abatement not only excludes remodeling activities, but defines abatement as the identification and permanent elimination of lead hazards. Remodeling activities, on the other hand, are not required to eliminate lead hazards but instead to repair, restore, or remodel the existing structure. By requiring remodelers to comply with the same lead hazards as the abatement firms will blur the lines between renovators and abatement firms, potentially harming both.

Finally, the identification of a lead hazard in rooms where the renovations have not occurred by remodelers will make renovators liable for existing lead in the home. Many of the homes where this work will be done may already have lead levels exceeding EPA's federal hazard level prior to renovation work. Regardless of whether the lead levels were cleared or not, renovators must leave documentation that confirms the presence of lead in the home that must be disclosed to future buyers or tenants.

This amendment raises some serious questions for us:

- Previous EPA studies have found that LRRP work practices and training requirements provide protection of public health. Has EPA received additional data regarding LRRP work practices and their health protections? We would be interested to review any new health or exposure data justifying an expansion of regulation to cover renovation work.

- Additionally, please provide us with the authority EPA has under TSCA to require remodelers to use clearance testing or dust wipe testing.

- Finally, it appears that EPA's initial cost estimate included a lower number of renovations requiring lead safe work practices due to approval of "next generation" testing kits. Unfortunately, none of those kits were approved. With the test's false positives, will EPA be revising its economic analysis of this rule, given the unavailability of new testing kits, and the higher number of jobs that require lead safe work practices?

Protecting pregnant women and children from lead exposure is important to all of us and we continue to support the intent of the LRRP rule. However, these amendments could have the unintended consequence of driving people away from using LRRP certified renovators and missing the clear benefits that come from employing LRRP renovators.

Thank you for your consideration of this important matter.

Sincerely,

Jim McCain Susan M. Collins

David Vitter

Olympia Snowe

Chuck Grassley

Roy Blunt

John Barrasso

Michael B. Enzi

John Hoeven

Mike Johanns

Lamar Alexander

Tom Coburn

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 1 1 2011

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of April 15, 2011, to the U.S. Environmental Protection Agency (EPA) expressing your concerns about proposed amendments to EPA's 2008 Lead Renovation, Repair, and Painting Rule (RRP rule), which requires most contractors who disturb paint in housing built prior to 1978 to be certified by EPA and trained in lead-safe work practices.

As you are aware, the RRP rule is an important part of the Federal government's overall strategy for eliminating childhood lead poisoning. Congress directed EPA to develop training and certification requirements for lead activities, including renovations, as part of the Residential Lead-Based Paint Hazard Reduction Act of 1992. EPA issued the RRP rule in 2008, and it became fully effective in April 2010. The rule provides simple, low-cost, common-sense steps contractors can take during their work to protect children and families. Since the RRP rule became final, EPA and states have made significant progress in implementing its requirements, which will protect millions of children from exposure to lead-based paint during renovation activities. As of today, more than 86,000 firms have been certified, more than 500 training providers have been accredited to provide training in lead-safe work practices, and we estimate that more than 600,000 renovation and remodeling contractors have been trained in lead-safe work practices. These requirements are key to protecting all Americans and especially vulnerable populations, such as children and pregnant women, from the harmful effects of lead exposure.

Shortly after the final RRP rule was promulgated in 2008, several lawsuits were filed challenging the rule. These lawsuits (brought by industry representatives as well as environmental and children's health advocacy groups) were consolidated in the federal Circuit Court of Appeals for the District of Columbia Circuit. On August 26, 2009, EPA signed a settlement agreement with the environmental and children's health advocacy groups and shortly thereafter the industry representatives voluntarily dismissed their challenge to the rule. The settlement agreement required EPA to propose changes to the RRP rule to require dust wipe testing after many renovations already covered by the RRP rule.

Accordingly, on April 22, 2010, EPA issued a Notice of Proposed Rulemaking (NPRM) under the authority of Section 402(c)(3) of the Toxic Substances Control Act that would require dust wipe testing after many renovations covered by the RRP rule. The NPRM published in the Federal Register on May 6, 2010, opening a 60 day public comment period. At the request of several stakeholders, and because EPA recognized the importance of the issues raised by the NPRM, EPA reopened the public comment period for an additional 30 days on July 7, 2010.

Commenters on the proposed rule raised a number of issues, including the issues described in your letter. EPA has reviewed the more than 300 comments on the proposal and has considered them carefully in determining what final action on the proposal should be taken. A summary of these comments and EPA's responses will be made publicly available in the docket when the final rule is published.

The settlement agreement calls for EPA to take final action on the proposal by July 15, 2011. EPA intends to meet this deadline. The final rule is currently undergoing review by the Office of Management and Budget.

With respect to the content or substance of the final action, the settlement agreement does not constrain the Agency's traditional discretion with respect to taking a final action on a proposal for rulemaking. Under the Administrative Procedure Act (APA) agencies have the discretion to make changes to what was proposed, provided that such changes are a "logical outgrowth" of the proposal. The settlement agreement does nothing to disturb this discretion under the APA.

With regard to the economic analysis, EPA typically revises the economic analysis accompanying the proposed rule to address the options chosen in the final rule. The revised economic analysis will incorporate or address relevant comments or other information, including that related to test kits, received by EPA after the proposal was issued and before the final rule is promulgated.

Again, thank you for your letter and your support for the goal of preventing dangerous lead exposures. If you have additional questions or concerns, please contact me or your staff may contact Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

Stephen A. Owens
Assistant Administrator

AL-10-001-5895

Congress of the United States
Washington, DC 20510

September 20, 2010

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson,

We appreciate the Environmental Protection Agency's (EPA) work to assess the health and safety of private water wells in the Pavillion area of Wyoming. EPA has invested significant time and resources into this important issue and identified organic and inorganic compounds that are of potential concern. A path forward must be developed and implemented so that Wyoming residents have a full understanding of the facts and a plan for accessing safe drinking water.

We request that you work with our offices, State and local officials, the Wyoming Department of Environmental Quality (DEQ), the tribes, and other relevant state and local agencies to develop a plan to fix this problem. We recognize EPA has played a vital role in this process. However, because local water issues are best handled at the state and local level, we suggest that DEQ take the lead role. They are best equipped to handle the issue in the long-term. This will ensure that your agency is not indefinitely involved in an issue regarding private water wells.

The safety of Wyoming residents must be paramount. We appreciate your continued attention to this matter and look forward to your response.

Sincerely,

Michael B. Enzi
United States Senator

John Barrasso, M.D.
United States Senator

Cynthia M. Lummis
U.S. Representative

Cc: John Corra, Director, Wyoming Department of Environmental Quality;
Ed Grant, Director, Office of State Lands and Investments

AL-10-001-5895

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

OCT 27 2010

Ref: 8EPR

The Honorable Michael B. Enzi
United States Senate
Washington, DC 20510-5004

Re: The Path forward for EPA in addressing ground-water contamination in the Pavillion area.

Dear Senator Enzi:

Thank you for writing, along with the other members of the Wyoming congressional delegation, to EPA Administrator Lisa Jackson on September 20, 2010, regarding the path forward for EPA in addressing ground-water contamination in the Pavillion area. The Administrator has asked that I respond to your letter, and I appreciate this opportunity to provide the following information in response to your concerns.

First, I wanted to be sure you were aware that, at EPA's request, Encana is voluntarily providing funding for alternate short-term drinking water for impacted well owners. This is being accomplished through a provisional agreement between Encana and the non-profit Wyoming Association of Rural Water Systems, which provides for alternate water for up to six months (which would be through February 28, 2011).

As we continue working toward more fully characterizing the nature and extent of the ground-water contamination in the Pavillion area, please be assured EPA is coordinating our next steps with the State, local and Tribal governments. We agree that development of a long-term solution to securing a safe and reliable source of drinking water for Pavillion area residents should involve all these government entities, and my managers and staff will continue collaborating with our governmental partners as we better define our respective roles and responsibilities. In addition, we are committed to maintaining our strong community involvement activities each step of the way.

We have not arrived at any final decisions yet as to roles, responsibilities or actions that may be necessary to protect the environment and the health of the area residents, but we expect to get there by fully engaging all parties as appropriate. We will keep your office apprised of our progress.

We appreciate and share your concern for protecting the health of Pavillion residents. If you have questions or additional concerns, please contact me; or your staff may wish to contact Sandy Fells, our Regional Congressional Liaison, at 303-312-6604 or fells.sandy@epa.gov.

Sincerely,

James B. Martin
Regional Administrator

United States Senate

WASHINGTON, DC 20510

November 29, 2010

Lisa P. Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

Dear Administrator Jackson,

We are writing to encourage you to consider input from all stakeholders in cultivating the America's Great Outdoors (AGO) initiative. In particular, we are concerned that Americans who are passionate about conserving our public lands for recreation have been overlooked for numerous listening sessions your agencies have held around the country.

We would also appreciate you forwarding to us all documents, correspondence to or from agency personnel or invitations to individuals or organizations that participated in panel discussions or were otherwise part of the formal program at any AGO listening session.

We would appreciate being updated on the status of your response to our letter. Thank for you for your service to our great country.

Sincerely,

cc: Secretary Tom Vilsack
cc: Secretary Ken Salazar

Congressman Rob Bishop (UT-01)

Congressman Dean Heller (NV-02)

Congresswoman Cynthia Lummis (WY-at-large)

Congressman Jason Chaffetz (UT-03)

Congressman Doug Lamborn (CO-05)

Congressman Michael Conaway (TX-11)

Congressman Don Young (AK – at-large)

Congressman Tom McClintock (CA-04)

Congressman Denny Rehberg (MT-at-large)

Congressman Wally Herger (CA-02)

MAR 10 2011

The Honorable Michael Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your November 29, 2010, letter regarding the America's Great Outdoors (AGO) initiative. We appreciate your interest and agree that the outdoor recreation community plays a critical role in fostering the success of this initiative.

This past summer and fall, senior Administration officials traveled around the country to hear from a wide variety of communities and to learn about innovative solutions for conservation, recreation, and reconnecting Americans with the outdoors. This effort included 51 listening sessions throughout the country, including 21 youth listening sessions, and 7 for tribes and tribal youth, all of which resulted in more than 100,000 comments and ideas.

We had the opportunity to interact with participants from a broad range of recreation interests – motorized (snowmobilers, OHV, ORV, ATV, motorcyclists), non-motorized (bicycling, hiking, mountain climbing, canoeing, kayaking, hunting and fishing), as well as organized sports (soccer, football, etc.). We also heard from parents and teachers, conservationists, civic leaders, business owners, state and local elected officials, tribal leaders, farmers and ranchers, historic preservationists, and thousands of young people under the age of 25. People from all ethnic groups, ages and political affiliation shared their passion for our Nation's great natural and cultural heritage.

This diverse representation of stakeholders resulted from our concerted effort to disseminate listening session information as broadly as possible through email, websites and local papers. These perspectives provided Administration officials working on the AGO initiative a much deeper sense of the challenges and opportunities for conservation and outdoor recreation that exist across this great country.

We intentionally varied the formats of the listening sessions to capture different viewpoints and expertise. At all of the sessions, senior members of the Administration spoke briefly on their agencies' involvement and interest in the AGO initiative. In about a quarter of the sessions, we invited local or regional experts to share their knowledge on subjects that are important to the region and important for the agencies to understand.

For instance, in Charleston, South Carolina, USDA organized a panel of seven people from diverse perspectives on conservation and management of long-leaf pine forests. In Montana, we heard from ranchers and sportsmen involved in regional conservation efforts. In Los Angeles, we heard from people working on expanding access to open green spaces and riverways within urban communities. In Philadelphia, we engaged people involved in historic and cultural preservation. In Bangor, Maine, we sought out experts in forestry management and outdoor recreation, including snowmobiling, to share how those uses have been jointly managed. In Minneapolis, we asked the head of Pheasants Forever to share his perspective on wildlife management. And in Grand Island, Nebraska, we asked farmers and conservationists to share their expertise on strategies around Great Plains conservation. Only 13 sessions had panel discussions and all of the sessions were structured to maximize public input through breakout session discussions.

Included with this response is information relating to these sessions, including an extensive list of organizations and stakeholders that were notified of the public listening sessions; a list of all speakers and panel participants from the listening sessions; and copies of handouts and other documents that were distributed as part of the formal program at these events. We also note that the AGO website, found at www.americasgreatoutdoors.gov, contains additional information that has been made available to the public, including the notes from the breakout discussions.

We trust that as you review these materials, you will see that AGO is about preserving and restoring the outdoor places that shape and define the American spirit, and that the report to the President was guided by the input of thousands of Americans. Thank you again for your letter and we look forward to continuing to work with you on this important effort. A similar response is being provided to your colleagues.

Sincerely,

Ken Salazar	Tom Vilsack	Lisa Jackson
Secretary	Secretary	Administrator
Department of the Interior	Department of Agriculture	Environmental Protection Agency

Enclosures

AL-10-001-6995

Congress of the United States

Washington, DC 20515

October 4, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

As Members of Congress representing water users throughout western and rural areas of the United States, we write to express concern with EPA's proposed permit requirement governing the use of aquatic pesticides. Irrigation districts throughout the West rely on the responsible use of aquatic herbicides in accordance with Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) label requirements to control the growth of weeds that threaten the delivery of water to our nation's farms.

EPA's proposal would require irrigation districts to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit program. As defined by the Clean Water Act, NPDES permits are required for point source pollutants discharged into waters of the United States. However, Congress specifically exempted irrigated agriculture return flow from meeting the definition of a "point source" in order to keep western irrigators on a level playing field with farmers in the east. The use of aquatic herbicides on or near irrigation canals and ditches is historically protected by this exemption as it is essential to maintaining return flow.

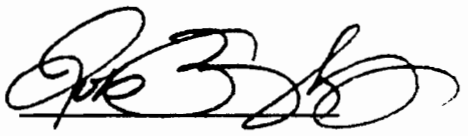
Importantly, EPA's proposal was issued in response to a 2009 Sixth Circuit Court of Appeals decision (*National Cotton Council, et al. v. EPA*) that did not address the definition of a point source or the application of the return flow exemption to irrigation district use, but only interpreted the definition of a "pollutant." Regardless of whether irrigation district herbicide use under FIFRA would now meet the court's definition of a pollutant, it is not a "point source" as prescribed by the Clean Water Act and NPDES permitting should not be required. Additionally, manmade irrigation systems do not necessarily meet the definition of "waters of the United States", further suggesting district herbicide use should not fall under the NPDES umbrella.

In practice, the proposed permit process would impose significant new costs on states and irrigation districts at a time when they simply cannot afford additional expense. EPA's proposal would require significant site monitoring, record keeping, and annual reporting, which is unnecessary to ensure environmental protection given that irrigation districts already act in a responsible manner under FIFRA guidelines.

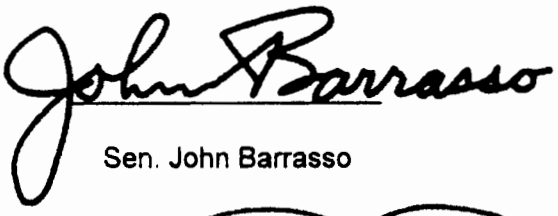
We caution you that EPA's proposal is poorly timed and unnecessary to comply with the court's decision as it relates to the use of aquatic herbicides by irrigation districts. For the above mentioned reasons, we strongly urge you to delay adoption of the proposed general permit.

Sincerely,

Sen. Mike Crapo

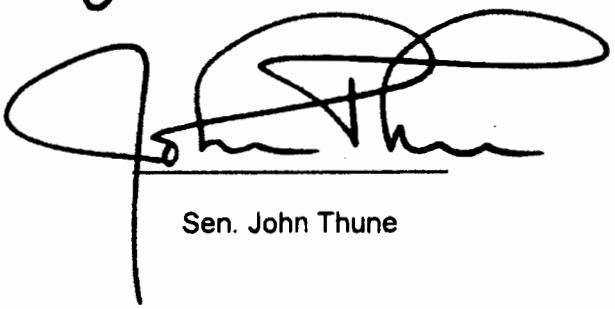


Rep. Rob Bishop

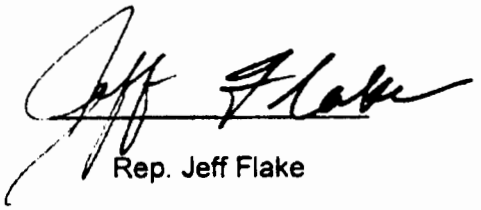


Sen. John Barrasso

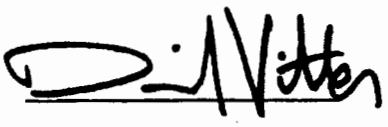
Rep. Wally Herger



Sen. John Thune

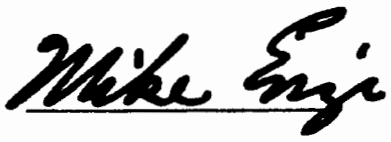


Rep. Jeff Flake

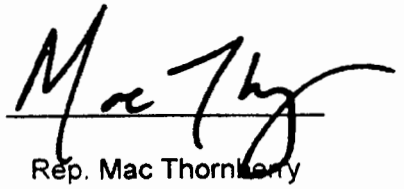


Sen. David Vitter

Rep. Cynthia Lummis



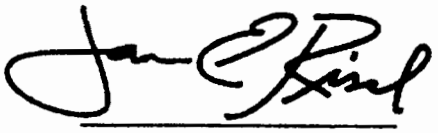
Sen. Michael Enzi



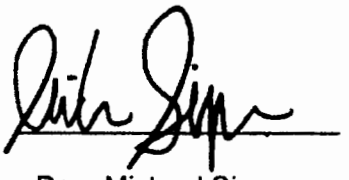
Rep. Mac Thornberry

Sen. Mike Johanns

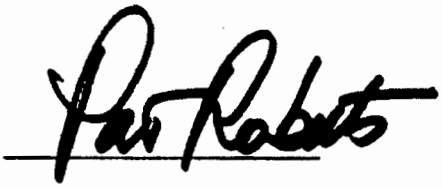
Rep. Jason Chaffetz



Sen. James Risch



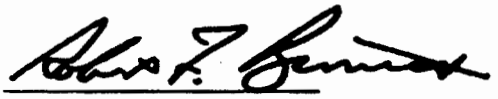
Rep. Michael Simpson



Sen. Pat Roberts

Rep. Doug Lamborn

Sen. Orrin Hatch



Sen. Robert Bennett

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 1 0 2010

OFFICE OF
WATER

The Honorable Michael B. Enzi
United States Senate
Washington, DC 20510

Dear Senator Enzi:

Thank you for your October 4, 2010, letter to U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson regarding EPA's ongoing development of the Clean Water Act National Pollutant Discharge Elimination System (NPDES) Pesticides General Permit (PGP). Your letter raises several questions about the PGP's applicability to irrigation systems.

Your letter raises concern that discharges resulting from herbicide application to irrigation systems should not require NPDES permits because they fall within the Clean Water Act's (CWA) statutory exemption for irrigation return flow and thus are not "point sources." I want to emphasize that your letter is correct in recognizing that irrigation return flow (which includes *runoff* from a crop field due to irrigation of that field) does not require NPDES permits, as exempted by the CWA. NPDES permits are required, however, for *point source discharges* from the application of pesticides, which includes applications of herbicides, into waters of the United States. The Sixth Circuit Court of Appeals in *National Cotton Council, et al. v. EPA*, decided that pesticide discharges (either from biological or chemical pesticides that leave a residue) are point source discharges of pollutants and require an NPDES permit.

Secondly, your letter recognizes that manmade irrigation ditches do not necessarily meet the definition of waters of the United States and, therefore, would not require an NPDES permit. We agree that many irrigation ditches are not waters of the United States or conveyances to waters of the United States, and thus, would not require NPDES permit coverage. EPA continues to rely on 2008 guidance clarifying the circumstances for when ditches are or are not waters of the U.S. following the Supreme Court decisions in ***SWANCC*** and ***Rapanos,*** under which ditches that do not contain at least seasonal flow are generally not considered waters of the US.

Lastly, you stated that compliance with the PGP would impose significant expense on states and irrigation districts when the permit requirements are unnecessary to protect the environment because the irrigation districts are meeting Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) guidelines. Since the Sixth Circuit Court's decision, EPA has been working closely with states (as co-regulators) and other stakeholders (e.g., numerous industry and environmental groups) to develop an NPDES

general permit that will provide pesticide applicators with the least burdensome option for complying with the Court's decision and the CWA's statutory requirements. Working with these states and stakeholders provided EPA with the information necessary to develop a permit that minimizes the burden, while offering the environmental protection measures required under the CWA. EPA proposed its draft PGP on June 4, 2010, and accepted comments through July 19, 2010. It is important to note that without the availability of a general permit for such discharges, pesticide applicators would have to obtain coverage under individual NPDES permits, which generally involve a more extensive application process and typically take longer to obtain.

EPA agrees that irrigation districts may already comply with FIFRA labeling requirements. The decision in *National Cotton Council,* however, clarified that these provisions are separate from what is required under the CWA and its implementing regulations. The draft PGP does require additional measures for protecting the environment beyond the FIFRA label; however, they are actions that most users of pesticides that are currently discharging to waters of the United States, are already implementing as best management practices. We have conducted extensive costing and economic analyses which conclude minimal burden to the applicator industry associated with the PGP. EPA developed this permit with the goal of avoiding undue regulatory burden upon pesticide applicators; of not including redundant requirements from those already in effect under existing laws, regulations, and permits; and providing a legally defensible permit that implements the required CWA statutory and regulatory protections for discharges resulting from application of pesticides.

In addition to working on the final EPA permit, as we stated above, we are also working closely with states to assist them in developing new state permits to be in place by the April 9, 2011, court deadline. Thank you again for sharing your concerns with us. If you have further questions, please contact me or your staff may call Greg Spraul in EPA's Office of Congressional and Intergovernmental Relations at (202) 564- 0255.

Sincerely,

Pete Silva

Peter S. Silva
Assistant Administrator

AL- 10-000-6778

United States Senate

WASHINGTON, DC 20510
April 27, 2010

Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

We write today to highly recommend you include strong participation from the impacted states in the hydraulic fracturing study the Environmental Protection Agency announced on March 18, 2010. As directed by Congress, the study must rely on the best available science, as well as independent sources of information. It also must be conducted through a transparent, peer-reviewed process in consultation with State and interstate regulatory agencies. State and local input and expertise will be key as you study this issue.

Wyoming is the nation's second largest producer of natural gas and seventh largest producer of oil. Hydraulic fracturing has been used in Wyoming for decades and plays a major role in energy production that occurs in our State. Because geology differs from state to state and region to region, the issues surrounding hydraulic fracturing in Wyoming are immensely different than in other areas of the country.

It is important that people with expertise specifically related to Wyoming be included as you move forward. Regulators and stakeholders in Wyoming have a strong understanding of the hydraulic fracturing process. They will be an invaluable asset as your agency conducts its study. In addition to Wyoming regulators and stakeholders, we recommend you work directly with Wyoming State Geologist Ron Surdam.

Mr. Surdam has headed the Wyoming State Geological Survey since 2004. Prior to his service as the State Geologist, he served in director positions for the Institute for Energy Research and the Enhanced Oil Recovery Institute at the University of Wyoming. With more than 30 years experience in the field of geology, he has the knowledge and scientific background to help you tackle this important issue.

Thank you for your attention to this matter. We look forward to working with your Agency on this matter.

Sincerely,

Michael B. Enzi
United States Senate

John Barrasso, M.D.
United States Senate

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 2 5 2010

OFFICE OF
RESEARCH AND DEVELOPMENT

The Honorable Michael B. Enzi
United States Senate
SR-379A Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter dated April 27, 2010, to Lisa Jackson, Administrator, U.S. Environmental Protection Agency (EPA), regarding EPA's study of hydraulic fracturing and your recommendation for strong participation from the impacted states. Your letter was referred to my office, the Office of Research and Development, for response. We appreciate your interest in the study and thank you for your support of EPA's continuing commitment to protecting the Nation's public health and environment.

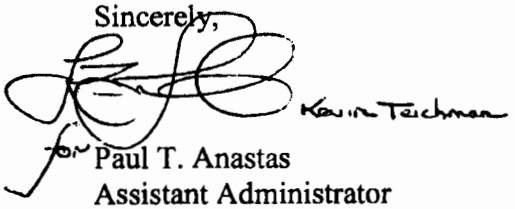
EPA is in the very early stages of planning and is taking the utmost care in scoping the project to address Congress' request as spelled out in the U.S. House of Representatives Appropriations Conference Committee's Fiscal Year 2010 budget report language. This request includes, "The Agency shall consult with other Federal agencies, as well as appropriate State and Interstate regulatory agencies in carrying out the study . . . ."

In early April, the Agency sought guidance and advice from EPA's Science Advisory Board (SAB) Environmental Engineering Committee – an independent, external federal advisory committee. The SAB's advice will be used to guide the design of the study, ensure balanced stakeholder involvement, and develop a rigorous scientific approach for the research strategy. Engaging the full range of stakeholders and the scientific community will ensure that independent sources of information and the best-available science will be used throughout the study.

Scientific experts within the Office of Research and Development, whose expertise includes both risk assessment and risk management, will lead the study and work in close partnership with other EPA offices such as the Office of Water and the Regional offices. We will follow our rigorous quality assurance and peer review processes and will conduct the study in a transparent and coordinated manner. We will also consult with other Federal agencies, as well as State and interstate regulatory agencies, including those in Wyoming.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call David Piantanida in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-8318.

Sincerely,



for Paul T. Anastas
Assistant Administrator

AL-06-002-1110

United States Senate

WASHINGTON, DC 20510

December 14, 2006

Mr. Stephen L. Johnson
Administrator, U.S. Environmental Protection Agency
Ariel Rios Federal Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Johnson:

On March 29, 2006, the U.S. Environmental Protection Agency (EPA) issued a proposed rule to reduce emissions of benzene and other hazardous air pollutants through controls on gasoline, vehicles and portable gasoline containers. We strongly support agency actions to improve air quality and public health by reducing mobile source air toxics (MSAT).

We write to call your attention to the treatment of small refiners in this rule. We are concerned the EPA may not be extending compliance consideration to as broad of a class of small refineries as Congress has recently recognized in the American Jobs Creation Act of 2004 (JOBSACT) and the Energy Policy Act of 2005 (EPACT). Small refining dynamics in regulations such as MSAT are important to us and we ask you to review this matter prior to issuing a final rule.

In summary, the MSAT proposal defines a small refiner as an entity that: (1) recently produced gasoline, (2) employs no more than 1,500 people companywide, and (3) has total refining capacity not exceeding 155,000 barrels per calendar day (b/d). The agency has determined that small refiners need additional time to comply with proposed MSAT requirements.

We are advised there are refineries in our home states that fail to meet the EPA's small refiner definition even though they are either: (1) small in size – fewer than 75,000 b/d (the definition used in EPACT); or (2) owned by a refiner with no more than 1,500 employees in the refining operations of the business and have a total refining capacity not exceeding 205,000 b/d (the definition used in the JOBSACT). These facilities are owned by entities such as farm co-operatives, families with varied business interests, refiners that participate in downstream retail fuel sales, and refiners that serve rural, isolated markets. While they own and operate refineries that are "small" by congressional standards, their corporate structure does not meet the unique eligibility test the EPA has proposed.

In the MSAT proposal, the EPA explains its rationale for giving small refiners more time to meet the new standards. Reasons include availability of capital, the shortage of engineering and construction resources, competition with large companies for technology

services and engineering expertise, and the availability of a robust benzene credit trading market. We struggle to see differences in these kinds of compliance disadvantages between the small entities defined by the EPA and those we identified above. To understand the issue better, we ask the EPA to identify for us each refiner and each refinery (by its capacity size) expected to meet the agency's small refiner definition.

As you know, the EPA recently proposed the renewable fuels standard (RFS) regulation. The EPACT exempted small refineries from RFS requirements for the first 5 years of the program. Of interest is that the EPA determined the congressional small refinery definition of less than 75,000 b/d was insufficient and did not cover enough facilities. Consequently, the EPA recommended the 5-year delay extend to more refineries than what Congress established.

The size of the refineries that EPA proposes being considered as "small" in the RFS rulemaking should be considered. The agency has recommended that several refineries larger than 75,000 b/d in size meet EPA's definition of a "small refiner." In contrast, we understand there are many refineries less than 75,000 b/d in size (one as small as 16,800 b/d) that the agency does not consider "small" in the MSAT proposal. This inconsistency is troubling.

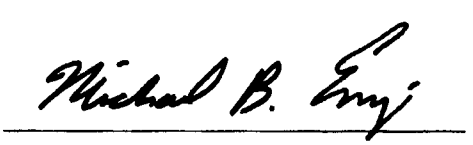
We are told that there is a potential overlap and relationship between the RFS and the MSAT rules. Renewable fuels blending will dilute pool benzene and may well impact the type and level of control technology needed to comply with the MSAT standard at individual refineries. Therefore, it will be especially important for classes of facilities to be treated consistently and congruently in the application of these two regulations.

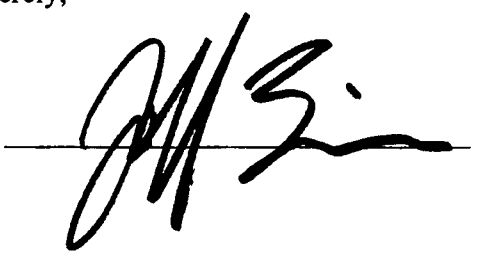
Small refiners in our states represent a key source of fuel supply to consumers, especially those in rural areas. These entities are also an important economic engine for jobs, commerce and industry in local and regional economies. They have invested heavily to keep pace with requirements to make cleaner fuels and to reduce refinery emissions. We are concerned when we hear that some small facilities are receiving regulatory consideration but others are not.

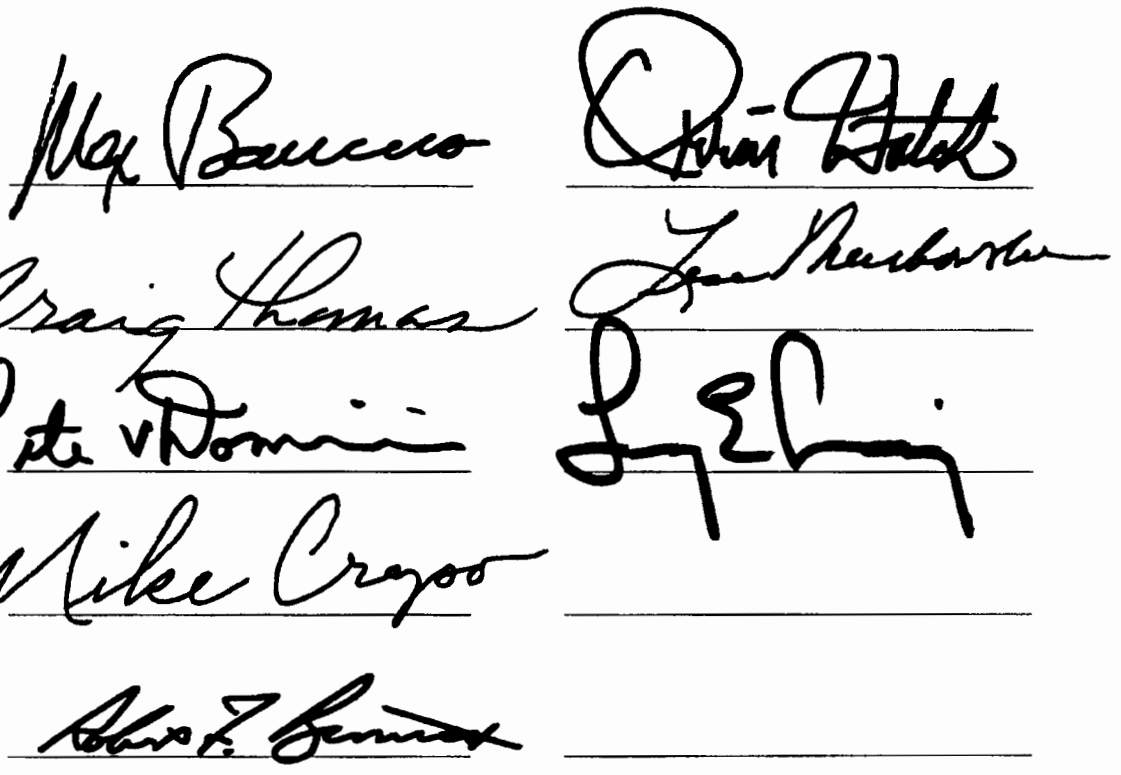
With this background in mind, we urge the agency to incorporate the definitions of a small refiner/refinery that Congress established in the JOBSACT and EPACT in the final rules on MSAT and to use the treatment of small refiners in the RFS regulation as a model. There should be fair and consistent treatment of facilities that are truly small in these major regulations.

Thank you for your review and consideration of our views on this important matter.

Sincerely,







UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 25 2007

OFFICE OF
AIR AND RADIATION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of December 14, 2006, co-signed by nine of your colleagues, in which you requested that the Environmental Protection Agency (EPA) reconsider the definition of small refiner for the purposes of the mobile source air toxics (MSAT) final rule.

In our MSAT proposal of March 29, 2006, the criteria to qualify as a "small refiner" are essentially identical to those used in many other EPA mobile source rules, including rules comparable in scope to the proposed MSAT rule, notably the Gasoline Sulfur and the Highway and Nonroad Diesel rules (with some minor clarifications to avoid confusion). Specifically, to qualify as a small refiner, we proposed that a refiner must demonstrate that it meets all of the following criteria: 1) produced gasoline from crude; 2) had no more than 1,500 employees, based on the average number of employees; and 3) had an average crude oil capacity less than or equal to 155,000 barrels per calendar day (bpcd).

These criteria are largely based on the Small Business Administration (SBA) definition of a small refiner. The small business employee criteria were established for SBA's small business definition (per 13 CFR 121.201) to set apart those companies which are most likely to be at an inherent economic disadvantage relative to larger businesses. This definition must also be used during the Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel process to determine which companies are considered small businesses. Under this process, EPA is required to focus consideration on small businesses and evaluate the burdens that a proposed rule would impose, and potential mechanisms to relieve burdens where appropriate. SBREFA and the Regulatory Flexibility Act require agencies to perform this assessment prior to each significant rulemaking that has a significant impact on a substantial number of small businesses. In keeping with the intent of SBREFA, EPA's overall approach in regulations establishing broadly applicable fuel standards has been to limit the small refiner relief provisions to the subset of refiners that are likely to be seriously economically challenged as a result of new regulations due to their size.

As you note in your letter, the Energy Policy Act of 2005 (EPAct) and the American Jobs Creation Act of 2004 (Jobs Act) use definitions that are different from the SBA definition. The EPAct focuses on refinery size rather than company size, while the Jobs Act focuses on refinery-

AL-11-001-9496

Congress of the United States
Washington, DC 20515

November 17, 2011

Honorable Lisa P. Jackson
Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

We are contacting you regarding concerns about the Environmental Protection Agency's (EPA) proposed decision to disapprove a portion of North Dakota's State Implementation Plan (SIP) and issue a Federal Implementation Plan (FIP) because of the ramifications of such a decision on our home state of Wyoming. The State of North Dakota took into account all of the factors specified in the Clean Air Act regional haze regulations and provided a reasoned explanation for its plan. Wyoming has taken similar care in drafting its plan. These plans balance the need to improve air quality with the need to take a reasonable approach that recognizes the effects of regulation on our economy. The approach insisted by the EPA is neither reasonable nor necessary. We are concerned that the EPA's insistence on moving forward with a FIP will increase energy prices and cost jobs in both North Dakota and Wyoming. At a time of high unemployment nationwide, this result is unacceptable.

The EPA's decision to issue a FIP ignores the reasoned approach taken by North Dakota and sets a precedent that could translate to the upcoming decision on Wyoming's efforts to meet the EPA's regional haze requirements. Rather than ignore the carefully constructed work of state regulatory agencies, the EPA should accept North Dakota's SIP to address regional haze. Wyoming should receive similar treatment when the EPA has finished evaluating its plan.

In Wyoming, we rely heavily on coal mining and coal-based generation to sustain and grow our economy. This nation's prosperity was built largely on the basis of reliable, affordable electricity. We have made great gains in reducing emissions from coal-based generation while increasing the supply of electricity. The coal industry supplies good paying jobs in our state. The affordable electricity provided by coal will help our economy grow.

If the EPA moves forward with its FIP, the cost of implementing such a plan will be tremendous. The electric generating industry of North Dakota will be forced to expend hundreds of millions of dollars on technology that has not been proven on North Dakota lignite coal. These costs will be passed on to consumers. We are told that, even if the emissions reductions are successful, the visibility differences will be imperceptible to the human eye. Should the EPA follow a similar path with Wyoming's plan, we are told that similar results will occur. As a nation, we must have solutions that justify the cost. The FIP proposed by the EPA does not appear to meet that test.

States like Wyoming and North Dakota should be given deference to develop a regional haze plan based on sound science, sound policy, and what the law requires. The people in the State are those who are most impacted by the regulations, so it makes sense that the State regulatory agency would be given deference. The EPA's FIP for North Dakota appears to ignore such an approach in favor of a costly, job killing proposal. We urge you to reject the FIP from the EPA's Region 8 in favor of allowing North Dakota to move forward with its SIP. When you make a decision about Wyoming's efforts, we hope you will allow for Wyoming to regulate regional haze within its borders.

Sincerely,

Michael B. Enzi
United States Senator

John Barrasso, MD
United States Senator

Cynthia Lummis
U.S. Representative

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 14 2011

OFFICE OF
AIR AND RADIATION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of November 17, 2011, co-signed by two of your colleagues, to Administrator Lisa Jackson, concerning our proposed action regarding North Dakota's State Implementation Plans (SIPs) to address regional haze and the interstate transport of air pollutants. The Administrator asked that I respond on her behalf.

In your letter, you express concerns that our proposed decision to issue a partial federal implementation plan (FIP) will increase energy prices and cost jobs in both North Dakota and Wyoming. You also emphasize that states should be given deference to develop approvable regional haze plans, and you request that we not promulgate our action, allow North Dakota to move forward with its SIP, and afford Wyoming the same considerations when we review its SIP.

The U.S. Environmental Protection Agency is in the process of reviewing all public comments received on our proposed action regarding the North Dakota plans and deciding on an appropriate course of action. I assure you, we will carefully consider the issues you have raised, along with the many issues raised by all the public commenters. We are under consent decree to take final action on the SIPs by February 9, 2012. In addition, we are currently reviewing Wyoming's SIP and drafting our proposed action. There will be an opportunity for public comment once the proposal is published.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

Gina McCarthy
Assistant Administrator

AL-11-001-6125

United States Senate

WASHINGTON, DC 20510

September 19, 2011

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

Dear Administrators Jackson and Babbitt:

We write to encourage the Environmental Protection Agency (EPA) and the Federal Aviation Administration (FAA) to work closely together with representatives from the aviation sector in any efforts to transition from leaded avgas used by General Aviation (GA) aircraft to an unleaded alternative. While we understand and share your desire to remove lead from avgas, especially in light of potential litigation, we also need to ensure the EPA does not ban lead used in avgas until we have a safe, viable, readily available, and cost-efficient alternative.

Currently, leaded avgas is used to fuel approximately 150,000 piston-engine aircraft in the United States. As you know, lead boosts the octane of the fuel used in these aircraft, protecting the engines against early detonation and preventing engine failure in flight. Despite ongoing research and testing, there currently is no safe or affordable alternative to leaded avgas to meet the needs of the GA aircraft fleet and FAA standards that ensure their flight safety.

Without avgas, most existing GA aircraft engines will have to be de-rated from their currently-certified power levels in order to maintain the FAA-required detonation margins at an incredible cost to aircraft owners, operators, and the consumers who rely on their service. Arbitrarily imposed changes would also result in a significant loss of power that will reduce the performance and cargo capacity of many existing GA aircraft, severely limiting their usefulness. These changes also pose a significant flight safety concern as a reduction in power results in reduced aircraft performance leading to longer takeoff distances and lower aircraft climb rates.

As you may be aware, GA contributes over $150 billion annually to the national economy and supports approximately 1.2 million American jobs. However, GA is more than just revenue and jobs. GA serves medical providers, law enforcement, small businesses, and agricultural producers. Agricultural pilots treat more than 75 million acres of cropland each year. In addition, GA aircraft provide service to all of the 19,600 public and private

landing facilities in the United States. In our most rural communities GA aircraft are the only means of reliable, year-round transportation available. Therefore, the use of a new avgas that does not provide the same detonation protection as today's fuel would turn most single, twin-engine, and high-performance airplanes into non-airworthy aircraft drastically affecting the national economy.

The GA industry, including aircraft and engine manufacturers, fuel producers and developers, as well as groups representing pilots and aircraft owners, play a key role in the process for finding suitable unleaded replacements for avgas. Each brings a mix of technical knowledge, historical perspective and market understanding to the discussion that must be considered to ensure General Aviation remains viable well into the future.

For these reasons, we urge both the EPA and FAA to work closely together with representatives of the GA sector and the House and Senate GA Caucuses in finding an alternative to leaded avgas. Furthermore, we urge you to carefully consider these concerns before you move forward with any rulemaking that would stop the use of leaded avgas before the FAA has an opportunity to take appropriate measures needed to approve a new, safe, and affordable unleaded avgas that takes into account the safety of those aboard the affected aircraft.

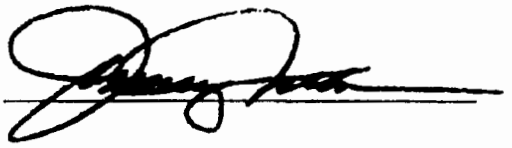
Sincerely,

John Thune

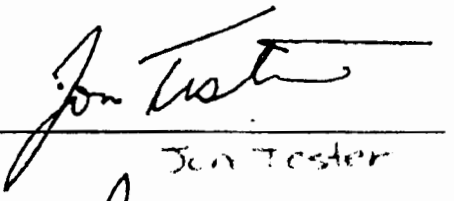
Lisa Murkowski

Michael Enzi

Saxby Chambliss



Pat Roberts



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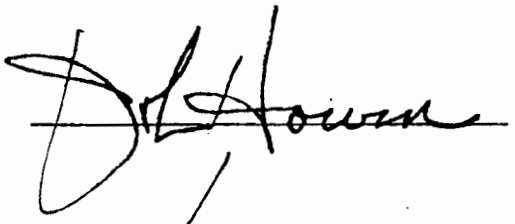
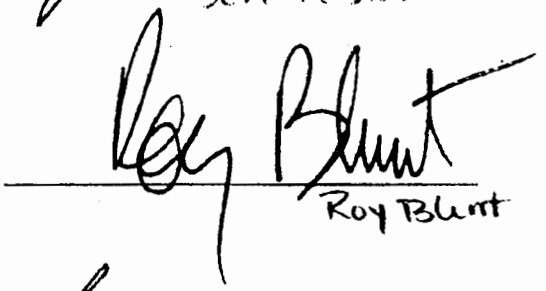
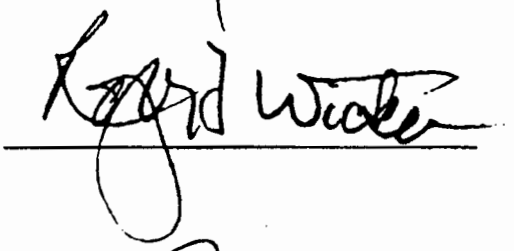
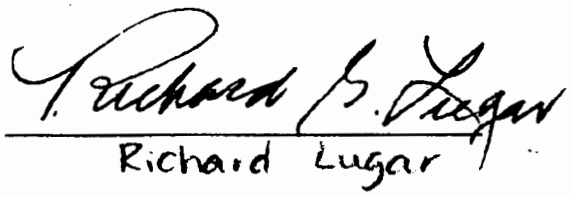




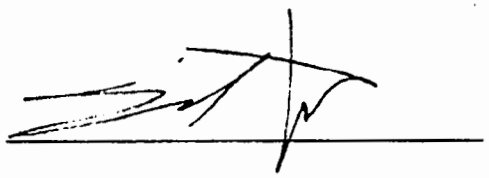
Roy Blunt

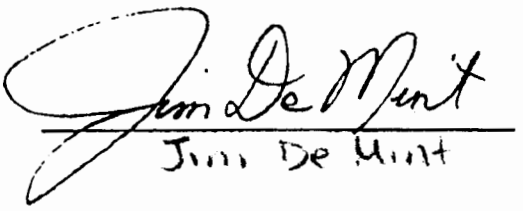




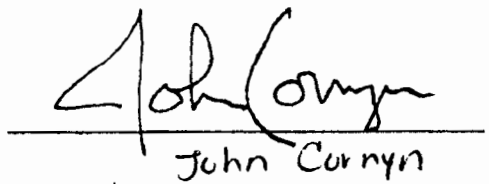
Richard Lugar

Dan Coats

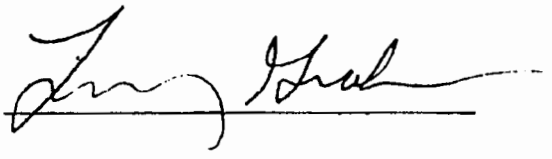


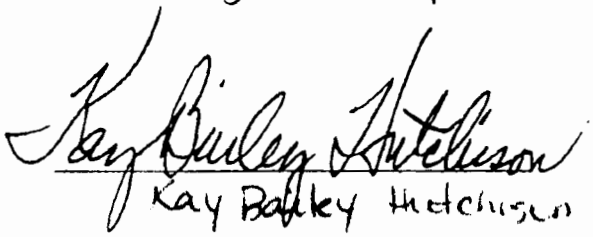


Jim De Mint

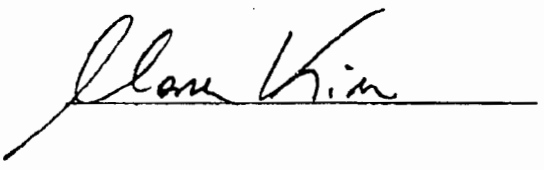


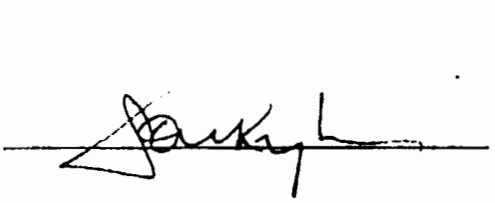
John Cornyn

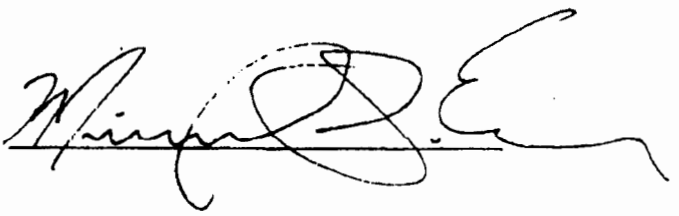


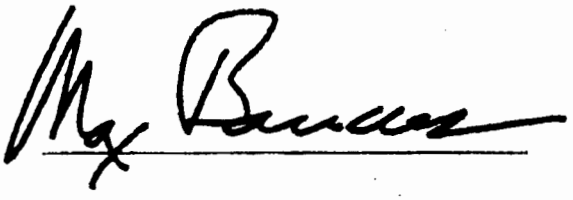


Kay Bailey Hutchison

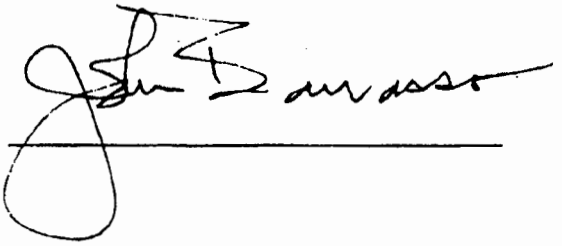








Jerry Moran



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC - 1 2011

OFFICE OF
AIR AND RADIATION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of September 19, 2011, co-signed by 26 of your colleagues, to Administrator Jackson. Your letter requests that the Environmental Protection Agency and the Federal Aviation Administration (FAA) work closely together with representatives from the aviation sector in any efforts to transition general aviation aircraft from leaded aviation gasoline (avgas) to an unleaded alternative. Specifically you noted concern regarding a ban on lead used in avgas before a safe, viable, readily available, and cost-efficient alternative is available.

I would like to clarify the EPA's role and actions on this issue: the EPA does not have regulatory authority over the composition or chemical or physical properties of aviation fuels. The EPA has the authority to establish emissions standards for aircraft under Clean Air Act section 231, and is responsible for judging whether emissions from aircraft, including aircraft lead emissions, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. FAA, however, has the authority to regulate the content of aviation fuel. The EPA is coordinating on an ongoing basis with FAA, and will continue to do so, on our activities related to the use of lead in aviation fuel.

The EPA published an Advance Notice of Proposed Rulemaking (ANPR) in April 2010 regarding leaded avgas. The purpose of the ANPR was to describe available data and request comment related to lead emissions, ambient concentrations of lead, and potential exposure to lead from the use of leaded avgas. The ANPR was issued in part in response to a rulemaking petition submitted by Friends of the Earth in 2006 concerning leaded avgas. Since then, the EPA has continued to gather and analyze relevant information. The ANPR and our current analytical work are focused on the issue of endangerment, which is the first step in a long regulatory process. We are mindful of the complexity of the issues involved, and the EPA is moving forward in a thorough and deliberate manner. Our analytical work and data collection is likely to continue over the next one to two years.

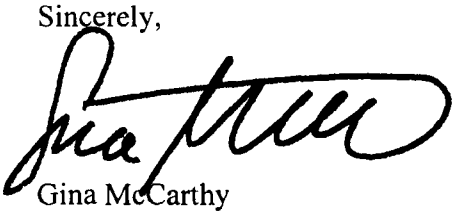
I want to assure you that the EPA recognizes the importance of piston-engine general aviation throughout the United States. Furthermore, safety considerations are always a high priority for us. We will be working in concert with FAA, industry and aviation groups to keep piston-engine powered airplanes flying safely, and in an environmentally responsible manner.

Any EPA regulatory action to address lead emissions from aircraft would involve a thorough process of identifying options and would consider safety, economic impacts and other impacts. This would be done in concert with the FAA, states, industry groups and user groups.

We appreciate the information you submitted about the importance of general aviation to the national economy, rural communities, and American businesses and jobs. We look forward to continuing our dialogue with FAA and the general aviation sector, as well as the House and Senate General Aviation Caucuses.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,



Gina McCarthy
Assistant Administrator

AL-12-001-6547
6547

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website enzi.senate.gov

United States Senate

WASHINGTON, DC 20510-5004

MICHAEL ENZI
WYOMING

COMMITTEES:
Health, Education, Labor and Pensions
Ranking Member
Finance
Small Business
Budget

September 28, 2012

Associate Administrator
Enviromental Protection Agency
Congressional and Legislative Affairs
1200 Pennsylvania Avenue, NW
Room 3426 Arn
Washington, DC 20460-0002

Dear Sir:

The Lincoln County Farm Bureau has provided me with a copy of their letter to you regarding their request to have the Clean Water Act Guidance Document withdrawn by EPA and the Army Corps of Engineers. I have enclosed a copy of that letter for your review.

I would like to ask that the situation outlined be carefully reviewed and that I be advised of your findings. Whatever information and assistance you can provide will be greatly appreciated. Please respond to me at P.O. Box 12470, Jackson, Wyoming 83002; or by fax (307) 739-9520; or email to reagen_green@enzi.senate.gov. I look forward to your reply.

Sincerely,

Mike Enzi

Michael B. Enzi
United States Senator

MBE:rbg

Enclosure

SEP 2 8 2012

September 22, 2012

Lisa P. Jackson, Administrator, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460

Tom Vilsack, Secretary of Agriculture, United States Department of Agriculture, 1400 Independence Ave., S.W., Washington, DC 20250

Dear Administrator Jackson and Secretary Vilsack:

Please withdraw the Clean Water Act Guidance Document by EPA and the Army Corps of Engineers.

If the Guidance Document were to be finalized, many areas of our ranches and areas throughout the state would become regulated by the EPA under the Clean Water Act. Congress did not intend the Clean Water Act to regulate ditches and farm ponds, possible groundwater, and even the rain once it falls to the ground.

The Clean Water Act has been successful in the previous 40 years. Now, the Guidance Document seeks new and expanded authority beyond the scope of the law. This must be withdrawn.

Thank you for your consideration.

Signed by members of the
Lincoln County Farm Bureau
538 Washington
Box 196
Afton, WY 83110

Jerry Humphrey
Deanne Humphrey
Val De Hoag
Gloy Heap
Donna White
Gordon C. White
Rita Hirschi
LaVelle Hirschi
Ken Hokanson
Rita Hokanson
Larry Crook
Darlene H. Crook
Desmond B. Handy

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC - 7 2012

OFFICE OF WATER

The Honorable Michael B. Enzi
United States Senator
P.O. Box 12470
Jackson, Wyoming 83002

Dear Senator Enzi:

Thank you for your letter of September 28, 2012, to the U.S. Environmental Protection Agency (EPA) Associate Administrator for Congressional and Intergovernmental Relations, forwarding a letter from the Lincoln County Farm Bureau to the EPA Administrator Lisa P. Jackson. The Lincoln County Farm Bureau letter requests that the EPA withdraw the draft Clean Water Act guidance document published by the EPA and the U.S. Army Corps of Engineers (Corps), and expresses concerns that the draft guidance would lead to increased regulatory control of ranches and farms. As the senior policy manager of the EPA's national water program, I appreciate the opportunity to respond to your letter.

In May 2011, the EPA and the Corps announced the availability of draft guidance for public review and comment that clarifies the scope of CWA protections in light of Supreme Court's decisions. This guidance, once finalized, would replace the 2008 guidance that the EPA and the Corps currently use. The agencies developed the draft guidance because we and many stakeholders believe strongly that the current guidance issued in 2008 is confusing and is causing avoidable delays and inconsistency for those who need CWA permits.

I want to emphasize for the Farm Bureau that we have worked hard to prepare the guidance to assure it would not establish any regulatory burdens for the nation's farmers. The draft guidance would reaffirm the existing regulatory exemptions for agriculture, including those for prior converted cropland. It would not affect any of the exemptions from CWA section 404 permitting requirements provided by CWA section 404(f), including those for ongoing agriculture, forestry, and ranching practices. The draft guidance also would not change the existing statutory and regulatory exemptions from NPDES permitting requirements for agricultural stormwater discharges and return flows from irrigated agriculture. It would further clarify that groundwater, including groundwater in underground tile drainage systems, is not protected as a "water of the United States" under the CWA.

We received over 230,000 comments, the vast majority of which were supportive of moving forward with clarifying the scope of protected waters. We have revised the guidance in response to comments received, and submitted a draft final guidance to the Office of Management and Budget for interagency review. This document remains in interagency review. The agencies have not made a decision whether or not to issue the guidance as final.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at 202-564-4836.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

AL-10-001-9071

United States Senate

WASHINGTON, DC 20510

November 17, 2010

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson,

We write to raise concerns regarding implementation of the renewable fuel standard (RFS) for small refineries. While the Department of Energy (DOE) is scheduled to complete an economic impact study this fall, we are concerned that there is the distinct possibility that the Department's study will not be completed by the end of the year. In that case, the Environmental Protection Agency (EPA) would be imposing the RFS on small refineries without the benefit of what we expect to be significantly superior data, presently being compiled by DOE, as directed under the FY 10 Energy and Water Appropriations bill. Therefore, we strongly urge you to work directly with DOE to ensure that your decision making incorporates this new data, as envisioned by Congress when it provided funding to revisit the flawed study.

As you know, EPACT exempts small refineries from RFS requirements out of concern for undue economic injury. The Environmental Protection Agency shared this same concern when they expanded the number and size of refineries eligible for this temporary exemption in the RFS rulemaking to include small business refiners. EPACT directed the Department of Energy to determine if the RFS would impose a hardship on small refineries prior to imposing regulation. With good information in hand, EPA could determine whether or not to extend the exemption.

In 2009, DOE issued a small refinery exemption study. Congress found the study to be incomplete in many essential respects and directed DOE to reopen and reassess the study. Under direction from Congress, DOE is now working on what is expected to be a robust small refinery study. It will review the financial health of the small refining sector, the cost of RFS compliance, and study unique market dynamics—all of which are fundamental to sound economic evaluation and essential in helping EPA make good regulatory decisions.

In early 2010, the RFS2 Preamble stated EPA knew that Congress (1) had disavowed the small refinery study, and (2) had directed DOE to reopen and revise the report. Despite this, we are concerned that EPA appears to be poised to rely on the flawed study and require small refineries to comply with the RFS by January 1, 2011. If the EPA moves forward with this decision without the final DOE report, it will be acting upon what Congress has determined to be a flawed study and would run counter to what Congress had envisioned under the Energy Policy Act of

2005. We believe this undermines the intent of that Act and leaves small refineries vulnerable to a mandate that has not fully been considered. It is reasonable and right for EPA to delay making small refineries subject to RFS requirements until (1) the DOE study is published and reviewed, (2) it concludes no disproportionate economic hardship exists, and (3) small refineries are given lead-time to comply with the new requirements.

EPA is authorized to grant an RFS extension to a refinery due to hardship on a case-by-case basis. EPACT provides two RFS protections to small refineries—a sector wide study as well as an individual option to petition EPA for regulatory relief. It is important to note, however, that EPA's case-by-case discretion was never intended to diminish, obviate, or replace the need for the sector wide study. The hardship exemption is a separate process than can rely on the distinct economic factors of an individual facility in evaluating the petition.

This issue is important to our local economies and we believe local jobs are dependent upon ensuring your decision is a well informed one. We seek your support to ensure that EPA will proactively work with DOE to ensure that the latest data will be incorporated in your decision making as envisioned by Congress before making a determination upon whether to extend the exemption. We thank EPA for considering these views and taking time to review this matter.

Sincerely,

John Barrasso

Senator John Barrasso, M.D.

Robert F. Bennett

Senator Robert F. Bennett

Michael B. Enzi

Senator Michael B. Enzi

Lisa Murkowski

Senator Lisa Murkowski

Senator Orrin G. Hatch

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 17 2010

OFFICE OF
AIR AND RADIATION

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

Thank you for your letter of November 17, 2010, co-signed by four of your colleagues, urging the U.S. Environmental Protection Agency (EPA) to work directly and proactively with the U.S. Department of Energy (DOE) to ensure that decisions we make with regard to small refinery exemptions from the Renewable Fuel Standard (RFS) program are based on the latest data. I am writing to inform you that this is indeed our intention.

Under Clean Air Act section 211(o)(9), small refineries are exempt from meeting the volume requirements of the RFS program until calendar year 2011. The Clean Air Act allows this exemption to be extended through 2011 and later years if it is determined that a small refinery will be subject to disproportionate economic hardship from the RFS volume requirements. Furthermore, the Clean Air Act provides two possible routes through which such a determination can be made. The first is through a study conducted by the DOE of the impacts on all small refineries. The second is through EPA's evaluation of a petition submitted by an individual small refinery.

In evaluating individual petitions, EPA must consult with the DOE and "consider the findings of the [DOE small refinery] study...and other economic factors." As a result, the two possible routes, while distinct and separate, are nevertheless linked together. As you know, DOE completed an initial small refinery study, "EPACT 2005 Section 1501 Small Refineries Exemption Study," on February 25, 2009, but is in the process of issuing a revised study on economic hardship for small refineries pursuant to a Congressional appropriations bill.

Throughout DOE's process of collecting and processing data for use in their revised study, we have been in contact with DOE staff and shared information as appropriate. We have also been coordinating with small refineries, including those that have submitted petitions requesting an extension of the statutory exemption. We intend to continue these interactions as we move forward.

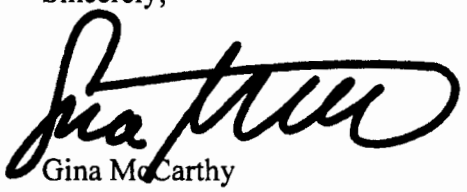
We believe that our decision would be best informed, and most consistent with the Clean Air Act, if we consider the findings of the revised DOE study before making a final decision on any petition from a small refinery. To this end, we have not made a final determination

concerning any of the small refinery petitions we have received to date, and we do not intend to make such determinations until after the revised DOE study is completed.

The Clean Air Act specifies that all small refineries shall be obligated parties beginning in calendar year 2011 absent an explicit extension of the applicable exemption. Since we have not extended the exemption for any small refinery as of this date, the RFS standards for 2011 were calculated assuming that no small refineries will be exempt in 2011.[3] However, if by the end of 2010 we make a determination that any small refinery will be subject to disproportionate economic hardship based on the revised DOE study, the RFS standards that apply beginning January 1, 2011, would not apply to that small refinery. Even if the revised DOE study and our determination are not completed until after January 1, 2011, we still have the ability to exempt a small refinery from the standard for calendar year 2011 since the RFS standard is an annual standard and compliance is not required to be demonstrated until February 28, 2012. We have communicated this with the small refineries that have petitioned us, and they understand the situation. Moreover, based on discussions with DOE, we expect that the revised study will be completed early in 2011, and we will make our determinations regarding extensions of applicable exemptions shortly thereafter.

Again, thank you for your letter. If you have further questions, please call me or have your staff contact Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,



Gina McCarthy
Assistant Administrator

[3]Final rule was signed on November 23, 2010.

AL-09-000-0583

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB - 9 2009

OFFICE OF
CHILDREN'S HEALTH PROTECTION
AND ENVIRONMENTAL EDUCATTION

The Honorable Michael B. Enzi
United States Senate
Washington, DC 20510

Dear Senator Enzi:

We want to bring to your attention that the U.S. Environmental Protection Agency's Aging Initiative has given a constituent community an award for Building Healthy Communities for Active Aging.

The City of Casper Wyoming was selected for one of the 2008 Commitment Awards for their Boomer Study, a comprehensive analysis impacts demographic changes will have on Casper in the coming years. In response to the report, Casper has made a commitment to improving the environment for older adults. The City is considering several policy changes, including: focusing development of new sidewalks in areas the will benefit older adults; changing zoning to allow a wider variety of senior housing to built; and redeveloping the of Old Yellowstone District with senior-friendly design.

The principal goal of the Building Healthy Communities for Active Aging awards program is to raise awareness about how communities can incorporate smart growth and active aging principles that lead to a healthier environment. Casper's commitment to provide older adults the opportunity to replace some of their driving with walking and biking will enhance the health of older adults while improving the environment for all its citizens.

Enclosed is the 2008 awards booklet highlighting Casper and three other award winner's activities. We encourage you to visit the EPA's Aging Initiative website that will soon post the 2008 winners and the awards booklet at www.epa.gov/aging.

If you have any questions, please contact me or have your staff contact Clara Jones in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701.

Sincerely,

Ruth McCully

Ruth McCully
Director

AL-10-000-9933

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 18 2010

OFFICE OF
CHIEF FINANCIAL OFFICER

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

I am pleased to provide you with the full-text draft of the Environmental Protection Agency's (EPA) *FY 2011-2015 Strategic Plan*, our latest draft document in carrying out the three-year update required by the Government Performance and Results Act of 1993 (GPRA). The Agency's *Strategic Plan* identifies the measurable environmental and human health outcomes the public can expect over the next five years and describes how we intend to achieve those results. We would appreciate receiving your views on the enclosed full-text draft by July 30, 2010.

It is our aim to produce a streamlined, executive-level *Strategic Plan* that we will use routinely as a management tool to advance the Administrator's priorities and EPA's mission. To this end, we have sharpened our strategic goals and objectives and have offered a focused set of strategic measures that better inform our understanding of progress and challenges alike in managing our programs. Our new cross-cutting fundamental strategies are directed at improving the way we carry out our work. We anticipate that this new approach will foster a renewed commitment to accountability, transparency, and inclusion.

We will use your feedback along with input from Agency partners and stakeholders and the general public this summer as we prepare the final *FY 2011-2015 EPA Strategic Plan* for release by September 30, 2010.

For your convenience, the full-text draft of the *Plan* is also accessible through http://www.epa.gov/ocfo/plan/plan.htm. Please address written comments to Vivian Daub at Strategic_Plan@epa.gov or to:

Vivian M. Daub, Director, Planning Staff
Office of Planning, Analysis, and Accountability (MC 2723A)
Office of the Chief Financial Officer
U.S. Environmental Protection Agency
Washington, D.C. 20460

If you have any questions or concerns, please contact me or have your staff contact Clara Jones in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701 or Jones.Clara@epa.gov.

Sincerely,

Barbara Bennett
Chief Financial Officer

Enclosure

AL-10-001-6098

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 3 0 2010

OFFICE OF
CHIEF FINANCIAL OFFICER

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

On behalf of the Environmental Protection Agency (EPA), I am pleased to provide you with the *FY 2011-2015 EPA Strategic Plan*, a periodic update as required by the Government Performance and Results Act of 1993 (GPRA).

The *FY 2011-2015 EPA Strategic Plan (Plan)* identifies the measurable environmental and human health outcomes the public can expect over the next five years and describes how we intend to achieve those results. In providing a blueprint for accomplishing our priorities, the *Plan* presents five strategic goals, accompanied by five cross-cutting fundamental strategies, designed to adapt our work to meet today's growing environmental protection needs. The *Plan* also reflects the contributions of our federal, tribal, state, and local partners as well as the importance of our ongoing collaboration with our partners and stakeholders in achieving the progress we expect. It also represents a commitment to our core values of science, transparency, and the rule of law in managing our programs.

For your convenience, the full text of the Plan is accessible electronically through http://www.epa.gov/ocfo/plan/plan.htm. For additional copies of the *Plan*, please contact me or have your staff contact Clara Jones in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701 or Jones.Clara@epa.gov.

In this our 40th anniversary year, EPA celebrates its founding, but faces some of the most far-reaching and complex environmental challenges in its history. We expect that the principles and strategic outlook of this *Plan* will guide us wisely in our work now and in the years to come.

Sincerely,

Barbara J. Bennett
Chief Financial Officer

Enclosure

AL-11-000-2919

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 01 2011

OFFICE OF
CHIEF FINANCIAL OFFICER

The Honorable Michael B. Enzi
United States Senate
Washington, D.C. 20510

Dear Senator Enzi:

On behalf of the Environmental Protection Agency (EPA), I am pleased to enclose the *FY 2011-2015 Strategic Plan.* A pre-publication version was formally transmitted to the Congress on September 30, 2010, as required by the Government Performance and Results Act of 1993 (GPRA).

EPA's *FY 2011-2015 Strategic Plan* provides a blueprint for accomplishing our priorities for the next five years. This *Plan* presents five strategic goals for advancing our environmental and human health mission outcomes accompanied by five cross-cutting fundamental strategies that set expectations for how the Agency works to achieve these goals.

This *Plan* sets forth our vision and commitment to protect human health and to preserve the environment for future generations as we undertake the important work that lies ahead. We will continue to work closely with the Congress as we implement the GPRA Modernization Act of 2010 to sustain attention on our priorities and achieve measurable results.

If you have questions regarding this *Plan* or would like additional copies, please have your staff contact Clara Jones in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701 or jones.clara@epa.gov.

Sincerely,

Barbara J. Bennett
Chief Financial Officer

Enclosure

AL-11-001-2449

United States Senate

WASHINGTON, DC 20510

July 25, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express significant concerns regarding the Environmental Protection Agency's (EPA) reconsideration of the 2008 National Ambient Air Quality Standards (NAAQS) for ground level ozone. EPA's reconsideration is occurring outside the statutorily directed 5-year review process for NAAQS and without any new scientific basis necessitating a change in the 2008 standard. Moreover, this decision will burden state and local air agencies that, in the current budgetary climate, can hardly cope with existing obligations. Likewise, the economic impact of EPA's proposal, while not determinative in setting NAAQS, are highly concerning, particularly in light of the billions of dollars in new costs that EPA has acknowledged would be imposed on America's manufacturing, energy, industrial, and transportation sectors. In light of EPA's intention to issue the final reconsideration rule by the end of July, the undersigned members of the United States Senate respectfully request that EPA continue its ongoing statutory review of new science, due in 2013, and not finalize the reconsideration at this time.

Regulatory Background

As you are aware, under the Clean Air Act (CAA), EPA establishes "primary" and "secondary" national ambient air quality standards for ground level ozone and other air pollutants. Primary standards are those "the attainment and maintenance of which ... are requisite to protect the public health." 42 U.S.C. 7409. While EPA must allow an "adequate margin of safety" when setting primary standards, the CAA's legislative history indicates that these standards should be set at "the *maximum permissible* ambient air level ... which will protect the health of any [sensitive] group of the population." *See* S.Rep. No. 91-1196, 91st Cong., 2d Sess. 10 (1970) (emphasis added). Secondary standards "specify a level of air quality the attainment and maintenance of which ... is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air." 42 U.S.C. 7409. Under Section 109(d)(1) of the CAA, EPA must complete a "thorough review" of the national ambient air quality standards "at 5-year intervals" and revise as appropriate.

Over time, EPA has tightened the ozone standard from 125 parts per billion (ppb) in the 1970s to 84 ppb in the 1990s. In March 2008, after a review process that took eight years, EPA further revised the primary ozone standard to 75 ppb and made the secondary standard identical to the revised primary standard. *See* 73 Fed. Reg. 16,436. EPA determined in 2008 that the 75 ppb standard was adequate, but not more stringent than necessary, to protect public health. Important decisions by state and local governments, businesses, and citizens have been made since that date in reliance on the 2008 standard.

In January of 2010, less than two years after issuing the 2008 standards, EPA announced its decision to revisit EPA's 2008 decision and to set new NAAQS for ground level ozone. This was a voluntary decision by EPA that was neither ordered by the courts nor mandated by law. Nor does administrative reconsideration of the NAAQS contain the public participation and mandatory review of new science required under the ongoing statutory 5-year review process. EPA's public statements indicate that the finalization of the new ozone standards could occur as soon as this month.

Significant Concerns with EPA's Current Approach

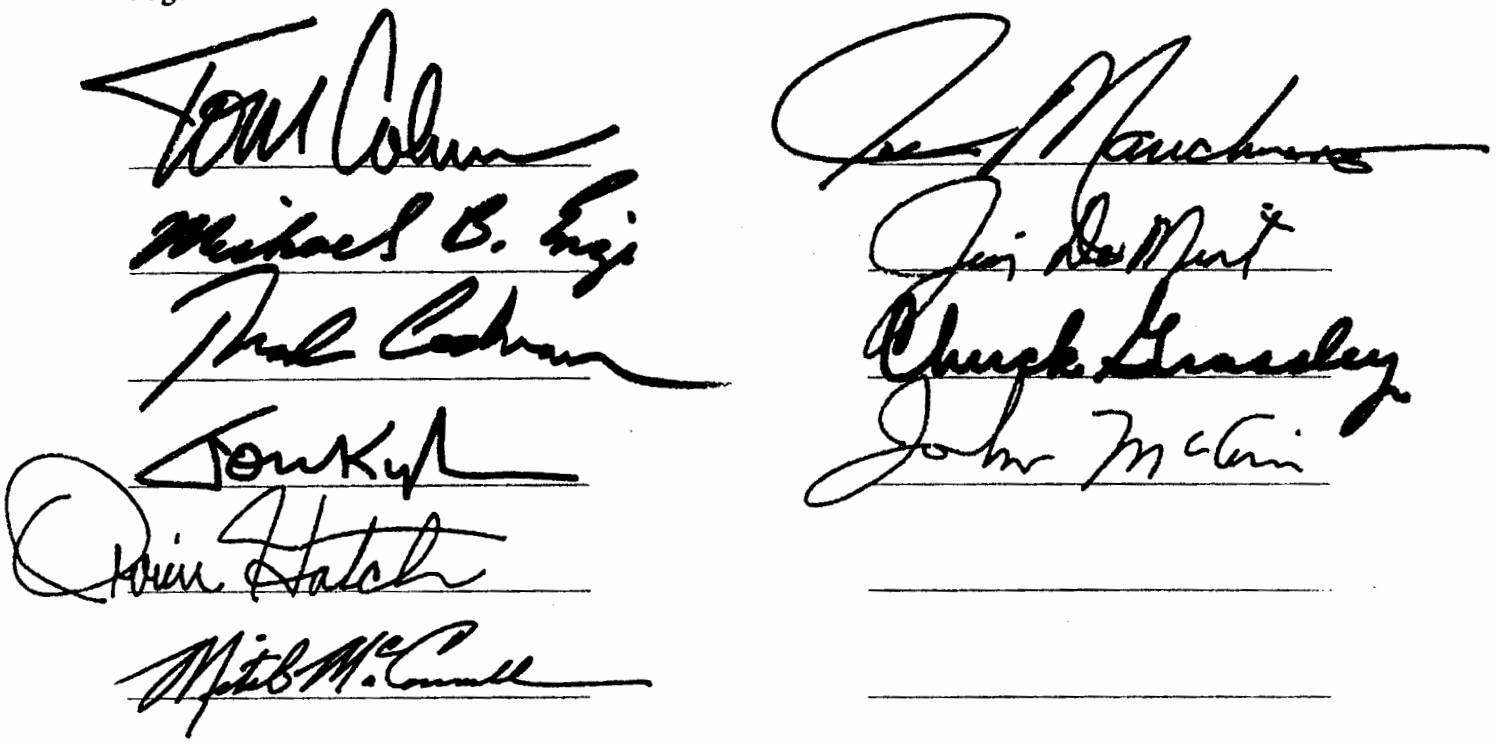
Several aspects of EPA's decision in this regard are troubling. First, the standard selected by EPA may force most large populated areas of the United States into non-attainment status for ground level ozone. In fact, a report by the Congressional Research Service in December 2010 made this point in very clear terms: "At 0.060 ppm [60 parts per billion], 650 counties—virtually every county with a monitor—exceeded the proposed standard." Even EPA's own estimates suggest that the new standard could add $90 billion dollars per year to already high operating costs faced by manufacturers, agriculture, and other sectors. Areas that will not be able to meet EPA's proposed new NAAQS will face increased costs to businesses, restrictions on infrastructure investment, and limits on transportation funding. Recent studies indicate that each affected state could lose tens of thousands of jobs.

Second, EPA's new ozone standards are being finalized just three years after the agency's original decision. This is at odds with the CAA's statutory NAAQS review process that includes mandatory reviews of new science and affords public participation and comment. EPA is already more than three years into the current statutory five-year review cycle for the 2008 ozone NAAQS. We are concerned that EPA's current ozone rulemaking is at odds with important procedures and safeguards afforded by the Clean Air Act.

Third, the new standards will create significant implementation challenges for the states and local air agencies that oversee nonattainment areas. As you know, most states are facing constrained fiscal situations and meeting existing obligations is already difficult. Many states will likely find it difficult if not impossible to develop and implement new compliance plans for the new standards.

For the foregoing reasons, we would respectfully urge EPA to withdraw the current proposed reconsideration and continue the ongoing 5-year NAAQS review process set forth in the Clean Air Act.

Sincerely,



AL-13-000-6853

Congress of the United States

Washington, DC 20515

June 14, 2013

Acting Administrator Bob Perciasepe
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, D.C. 20460

Dear Acting Administrator Perciasepe,

We are contacting you about the Environmental Protection Agency's (EPA) proposal to partially disapprove the State of Wyoming's State Implementation Plan (SIP). We respectfully request that you reschedule the public hearing date sixty days later than is currently scheduled and hold an additional public hearing in Wyoming to allow for greater public involvement. We also request that the EPA delay the deadline for accepting public comment 30 days after the public hearing dates. This will allow all interested parties adequate time to respond to the agency's proposed changes.

The EPA's revised proposal partially disapproving of the State of Wyoming's SIP ignores the good work of the Wyoming Department of Environmental Quality (DEQ) and is an unnecessary overreach on an issue that is best regulated at the state level. Further, the public hearing on the revised proposal does not allow adequate time for Wyoming stakeholders to review and analyze the new plan.

The Wyoming DEQ followed all of the factors specified in the Clean Air Act and developed a reasonable approach to addressing regional haze. The plan balanced the need to address regional haze with the need to do so in a cost effective manner. The EPA has proposed a more costly solution with only marginal benefit. This will lead to higher electricity costs and job losses at a time when our economy cannot afford either.

The regulation of regional haze is focused on improving visibility, not public health. It has traditionally been the role of the states, not the federal government, to determine the most effective method of visibility improvement. The EPA's partial disapproval of the Wyoming SIP flies directly in the face of the traditional role of the states. The people who live in the State of Wyoming should be given deference in determining how to approach to the regulation of visibility.

The changes in EPA's new plan could have significant impacts on Wyoming's families, and requires a thorough analysis and thoughtful input from all interested stakeholders. Thank you for your immediate attention to our request.

Sincerely,

Michael B. Enzi
United States Senator

John Barrasso, M.D.
United States Senator

Cynthia Lummis
Member of Congress